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EXHIBIT A

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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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Docket Number 2483CV00692

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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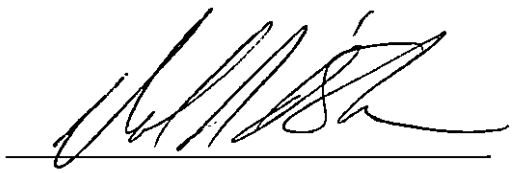
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

EXHIBIT D

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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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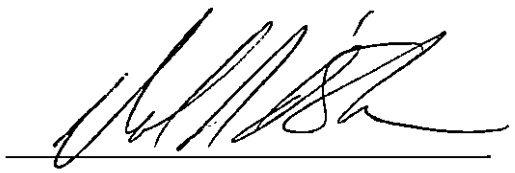
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
jdealy@hassettdonnelly.com
cmccaffrey@hassettdonnelly.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
John A. Donovan, III, Esq.
SLOANE AND WALSH, LLP
One Boston Place
201 Washington Street, Suite 1600
Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
Boston, MA 02109
Tel: 617-897-5600
cwaters@sheehan.com
dseligson@sheehan.com

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

arosenberg@sheehan.com

Elizabeth S. Little, Esq.
Caleb E. Mason, Esq
Alan Jackson, Esq.
WERKSMAN JACKSON & QUINN LLP
888 West Sixth Street, 4th Floor
Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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Docket Number 2483CV00692

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Superior Court - Plymouth
Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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Docket Number 2483CV00692

EXHIBIT C

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Docket Number 2483CV00692

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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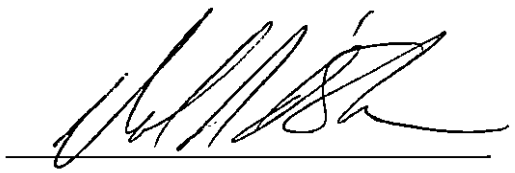
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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600 Atlantic Avenue
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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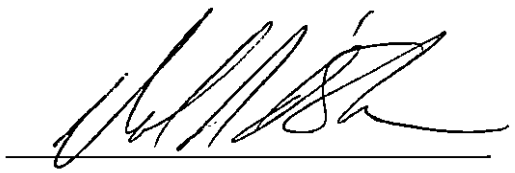
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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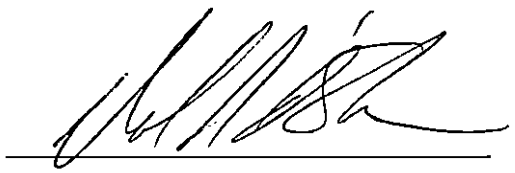
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

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Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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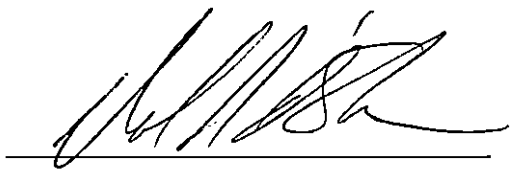
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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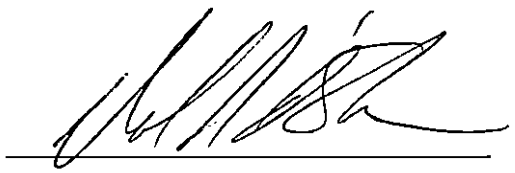
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT E

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Lincoln A. Rose, Esq.
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Tel:617-951-2012
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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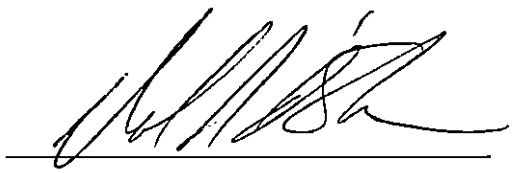
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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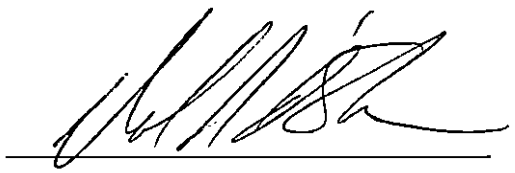
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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TEL: (617) 527-4229

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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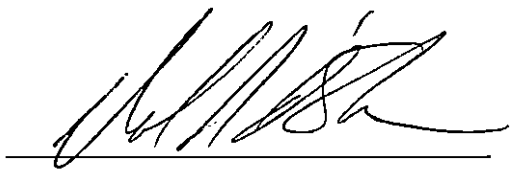
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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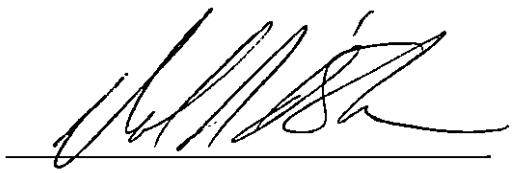
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Lincoln A. Rose, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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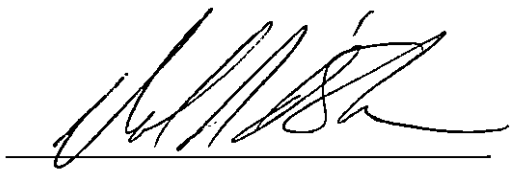
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Superior Court - Plymouth
Docket Number 2483CV00692

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Alan Jackson, Esq.
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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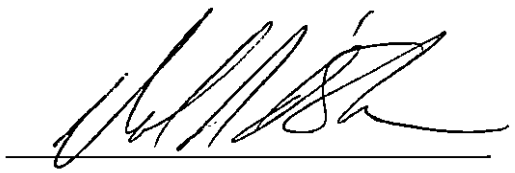
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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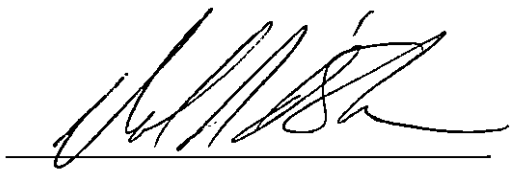
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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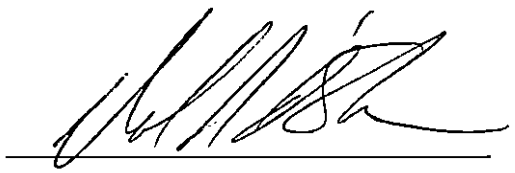
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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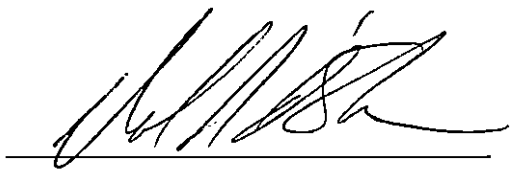
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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TEL: (617) 527-4229

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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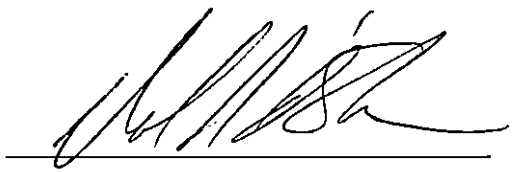
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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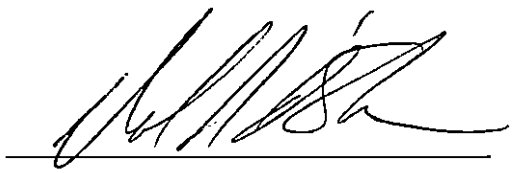
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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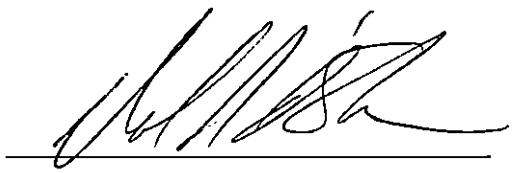
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Docket Number 2483CV00692

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Alan Jackson, Esq.
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Elittle@werksmanjackson.com
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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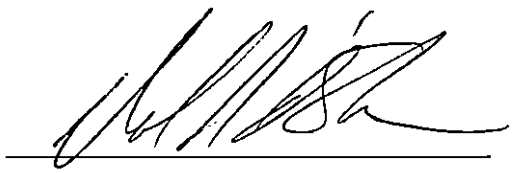
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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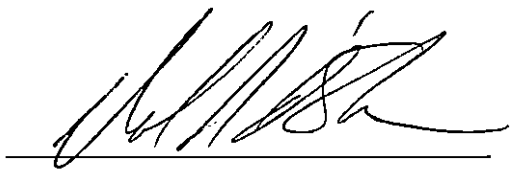
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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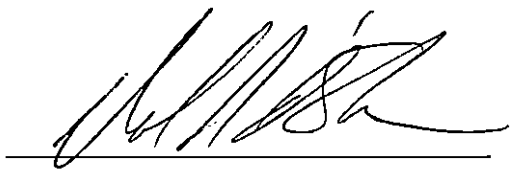
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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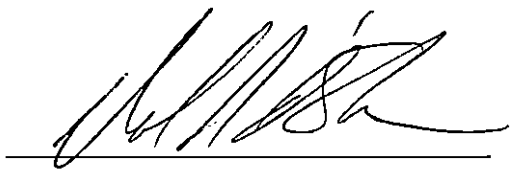
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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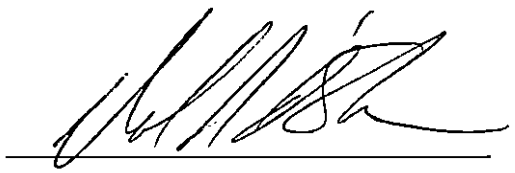
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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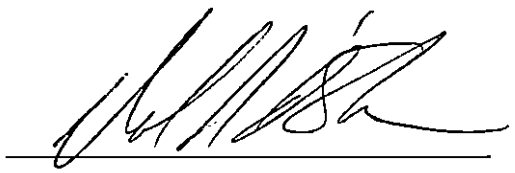
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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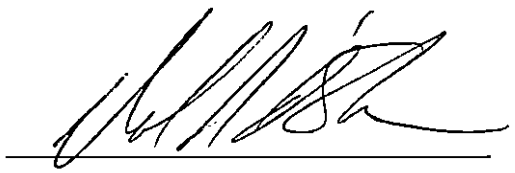
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Docket Number 2483CV00692

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Alan Jackson, Esq.
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Elittle@werksmanjackson.com
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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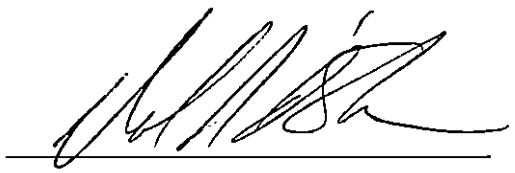
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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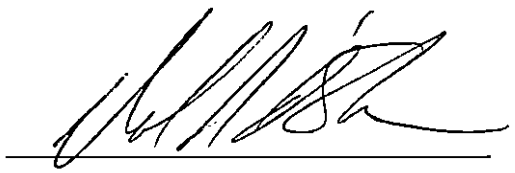
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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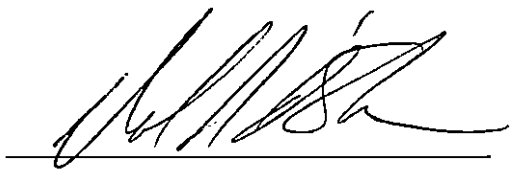
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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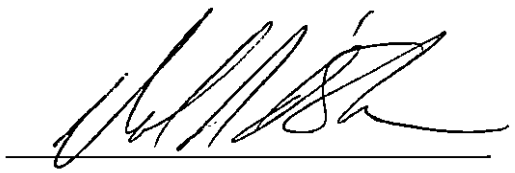
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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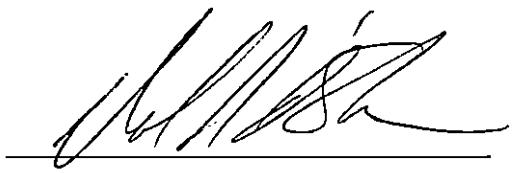
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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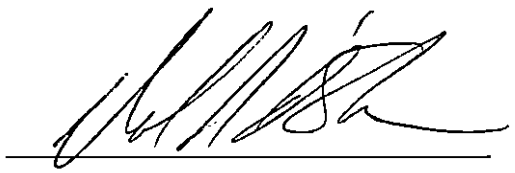
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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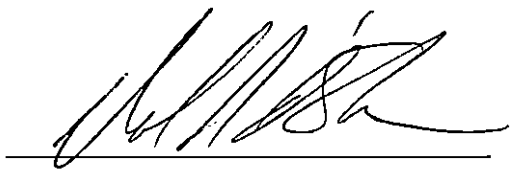
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Docket Number 2483CV00692

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Alan Jackson, Esq.
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Elittle@werksmanjackson.com
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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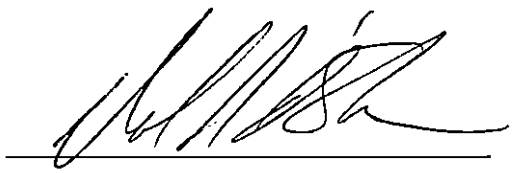
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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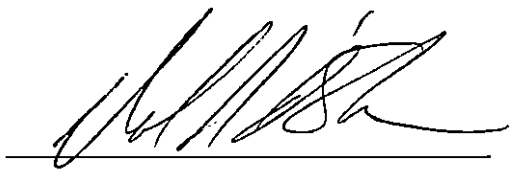
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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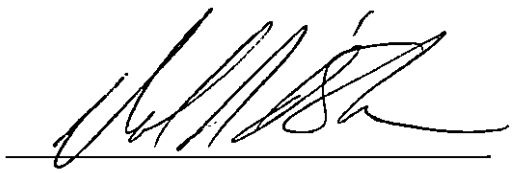
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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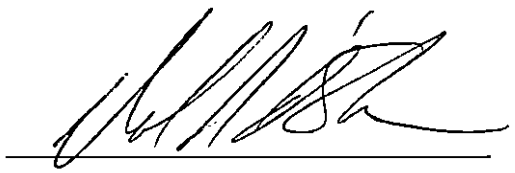
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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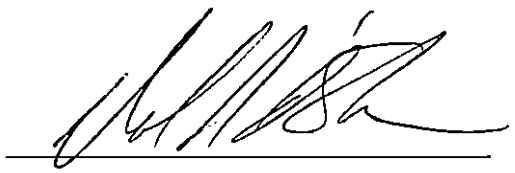
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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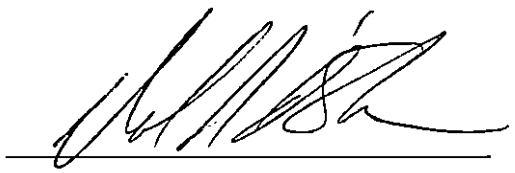
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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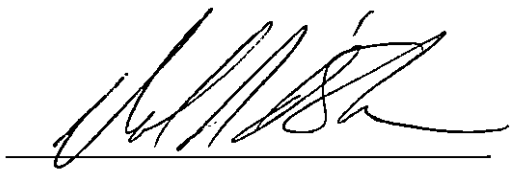
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Docket Number 2483CV00692

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Alan Jackson, Esq.
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Elittle@werksmanjackson.com
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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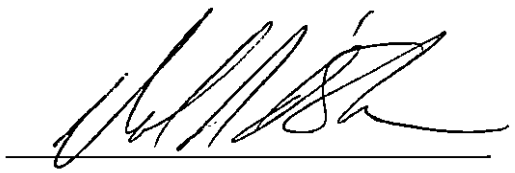
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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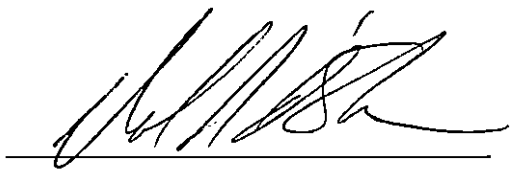
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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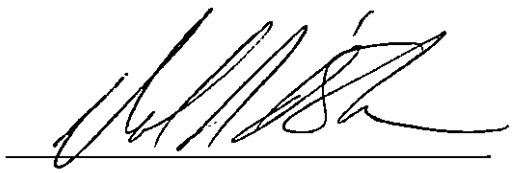
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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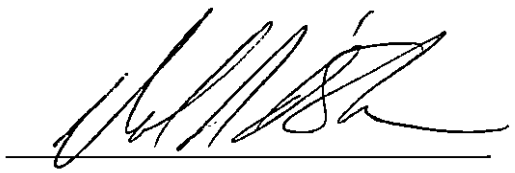
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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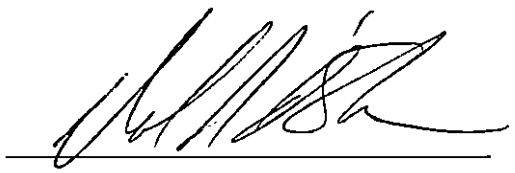
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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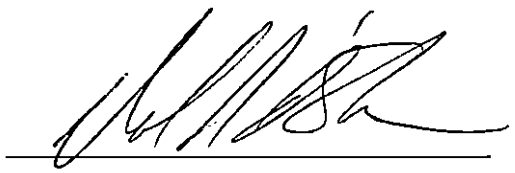
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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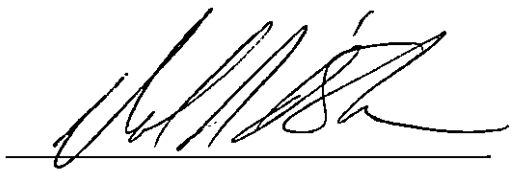
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Superior Court - Plymouth
Docket Number 2483CV00692

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Alan Jackson, Esq.
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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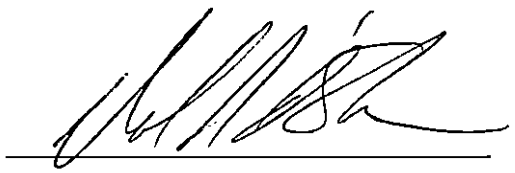
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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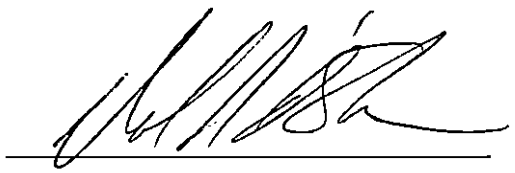
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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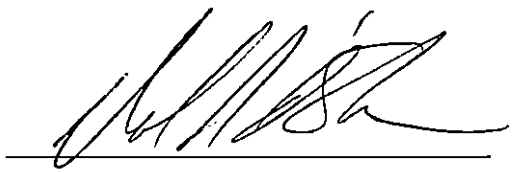
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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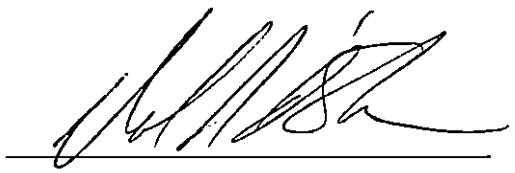
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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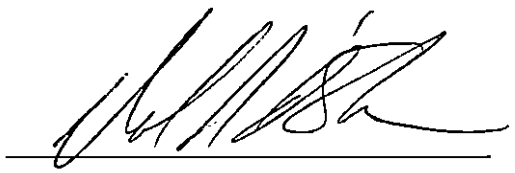
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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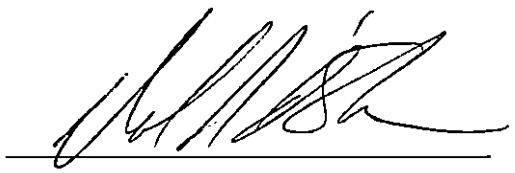
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Lincoln A. Rose, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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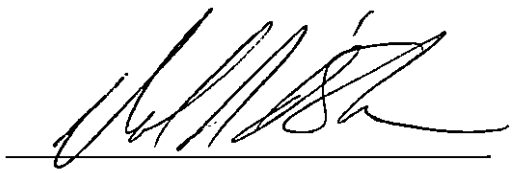
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Docket Number 2483CV00692

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Alan Jackson, Esq.
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Elittle@werksmanjackson.com
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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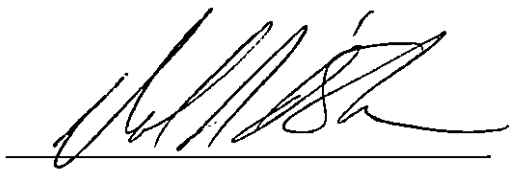
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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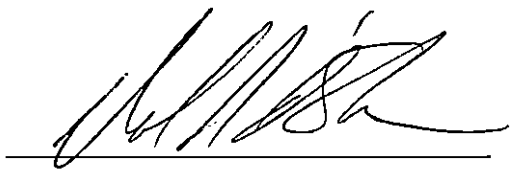
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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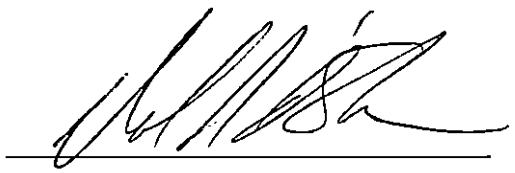
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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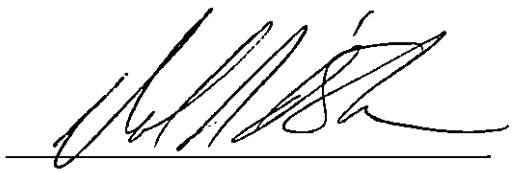
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
tsmith@peabodyarnold.com
lrose@peabodyarnold.com

Counsel for Defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill
David F. Hassett, Esq.
John M. Dealy, Esq.
Casey L. McCaffrey, Esq.
HASSETT & DONNELLY, PC
446 Main Street, 12th Floor
Worcester, MA 01608
Tel: 508-791-6287
dhassett@hassettdonnelly.com
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One Boston Place
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Boston, MA 02108
Tel: 617-523-6010
Fax: 617-227-0927
jdonovan@sloanewalsh.com

Counsel for Defendant Karen Read
Charles Waters, Esq.
Damon M. Seligson, Esq.
Aaron D. Rosenberg, Esq.
SHEEHAN PHINNEY BASS AND GREEN PA
20 State Street, 22nd Floor
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Alan Jackson, Esq.
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Los Angeles, CA 90017
Tel: (213)688-0460
Elittle@werksmanjackson.com
Cmason@weksmanjackson.com
Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

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Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT B

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
Marc Diller, Esq.
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EXHIBIT C

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41

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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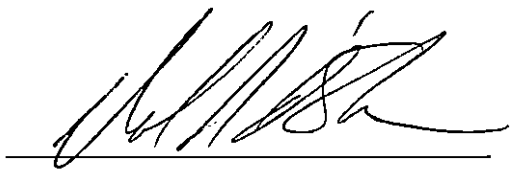
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210
Tel:617-951-2012
Tel: 617-951-2069
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John M. Dealy, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING "LAST USUAL" @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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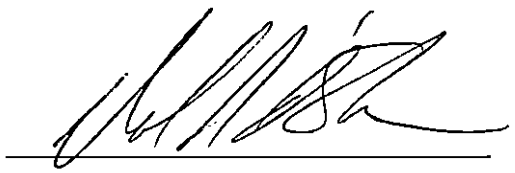
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
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EXHIBIT D

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

Date Filed 6/30/2026 2:13 PM
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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Lincoln A. Rose, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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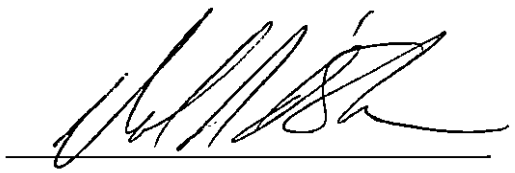
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
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781-830-4800
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March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Charles Waters, Esq.
Damon M. Seligson, Esq.
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Superior Court - Plymouth
Docket Number 2483CV00692

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Alan Jackson, Esq.
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Ajackson@werksmanjackson.com

Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
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EXHIBIT A

Date Filed 6/30/2026 2:13 PM
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Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Docket Number 2483CV00692

Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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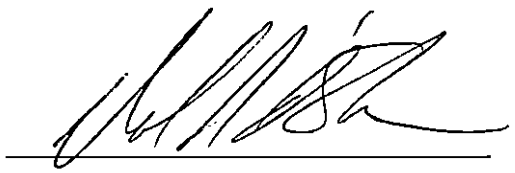
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
Tamara Smith Holtslag, Esq.
Lincoln A. Rose, Esq.
PEABODY & ARNOLD LLP
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Tel: 617-951-2069
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Aaron D. Rosenberg, Esq.
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

---

[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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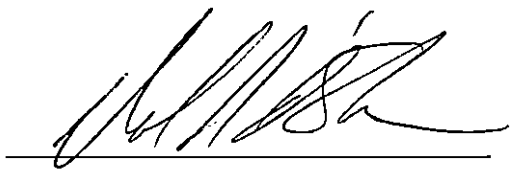
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

EXHIBIT D

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
marc@dillerlaw.com

CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

Counsel for Defendants, C&C Hospitality, LLC d/b/a C.F. McCarthy's and G&S Hospitality, LLC d/b/a C.F. McCarthy's
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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

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Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
BBO #710795
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109
(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

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SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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2282CR117
647

COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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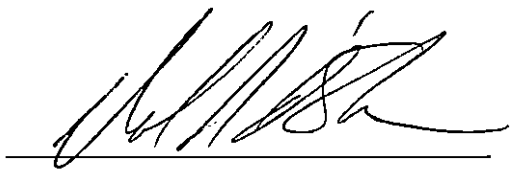
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS. SUPERIOR COURT DEPT.
C.A. NO. 2483CV00692

PAUL O'KEEFE, INDIVIDUALLY & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE, III; MARGARET O'KEEFE, INDIVIDUALLY AND AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH; and JOHN O'KEEFE, II,
Plaintiffs,

v.

C&C HOSPITALITY, LLC, *d/b/a* C.F MCCARTHY'S; G&S HOSPITALITY, LLC *d/b/a* C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD *d/b/a* WATERFALL BAR & GRILL; and KAREN READ,
Defendants.

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL RESPONSES TO PLAINTIFFS' SUPPLEMENTAL KEEPER OF RECORDS SUBPOENA FROM AIDAN KEARNEY

NOW COME the Plaintiffs in the above-captioned matter, and respectfully request that this Honorable Court, pursuant to Rule 45 of the Massachusetts Rules of Civil Procedure and other relevant rules governing discovery, issue an order compelling Aidan Kearney to provide responses and documents to Plaintiffs' Supplemental Keeper of Records Subpoena served on April 21, 2026. As of the date of service, Plaintiffs have yet to receive responses, objections, or any request for extension from Kearney.

I. RELEVANT BACKGROUND

On April 21, 2026, Plaintiffs served a Supplemental Keeper of Records Subpoena on Aidan Kearney. Responses were due by April 30, 2026. EXHIBIT A. To date, Kearney has made no effort to respond, object, or request an extension. This Subpoena is directly tied to Plaintiffs'

underlying civil action filed on August 23, 2024, against Defendants Karen Read, C.F. McCarthy's, and Waterfall Bar & Grill seeking damages arising from the death of John O'Keefe III. The Complaint asserts claims against Defendant Karen Read for wrongful death (Count III), negligent and/or reckless infliction of emotional distress (Counts X-XII), and reckless and/or intentional infliction of emotional distress (Count XIII). EXHIBIT B.

Central to Plaintiffs' emotional distress claims is the allegation that Karen Read, acting through Aidan Kearney, orchestrated a coordinated public campaign to promote a false narrative surrounding John O'Keefe's death. Kearney, a blogger operating under the pseudonym "Turtleboy," served as Read's agent, mouthpiece, and primary instrumentality in disseminating this harmful content. Communications between Read and Kearney are therefore essential to proving the emotional distress claims.

On August 12, 2025, Karen Read filed a partial motion to dismiss. In ruling on said motion, the Court found the allegations sufficiently plausible to survive dismissal, stating:

> "When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death. Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had 'expired' for 'going after' the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress." EXHIBIT C.

In denying the motion to dismiss, Judge O'Shea endorsed the plausibility of the O'Keefe family's infliction-of-emotional-distress claims, finding that sufficient facts exist to support these claim. These claims remain active today and warrant full discovery.

Separate from this civil action, the Norfolk Grand Jury indicted Kearney on nine counts of witness intimidation, five counts of illegal picketing of a witness, and three counts of conspiracy

to intimidate a witness. The Norfolk District Attorney's Office has conducted criminal investigations into both Read and Kearney. Through these investigations, the NDAO obtained forensic extractions from cell phones belonging to both Read[1] and Kearney. These extractions contain the very communications between Read and Kearney that Plaintiffs require to prove their claims.

On March 31, 2025, the Court entered a Protective Order governing the sharing of Kearney's cell phone data, directing all agents of the Commonwealth to "maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant." *See* EXHIBIT D.

Plaintiffs have pursued every available avenue to obtain the discoverable materials in the NDAO's possession. On February 24, 2026, Plaintiffs served the NDAO with a Supplemental Keeper of Records Subpoena seeking materials related to Kearney. On March 6, 2026, the NDAO objected, citing the Protective Order and confidentiality concerns as the primary impediments to production. *See* EXHIBIT E. Notably, the NDAO did not assert that the materials lack relevance or discoverability. On March 4, 2026, Plaintiffs filed a Motion to Intervene in *Commonwealth v. Kearney* for the limited purpose of expanding the Protective Order to permit production of these materials to Plaintiffs. That motion remains pending.

Despite these efforts, Plaintiffs still lack access to communications and materials. Kearney's complete failure to respond to the Keeper of Records Subpoena served on April 21, 2026, necessitates this motion.

II. LEGAL STANDARD

[1] Plaintiffs have reached an agreement with Read's counsel regarding the production and handling of the phone extraction data pertaining to Read.

Mass. R. Civ. P. 45(a)(1)(C) authorizes a subpoena commanding a non-party to produce documents. Where a non-party fails to respond, the party serving the subpoena may move for an order compelling production. Mass. R. Civ. P. 45(d)(2)(B). "Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued." Mass. R. Civ. P. 45.

In interpreting the scope of discovery under the Massachusetts Rules of Civil Procedure, the Supreme Judicial Court has followed the approach taken under the federal rules, and defined "relevant" evidence "broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case... discovery is not limited to issues raised by the pleadings, for discovery itself is designed to help define and clarify the issues...Nor is discovery limited to the merits of a case, for a variety of fact-oriented issues may arise during litigation that are not related to the merits." *Cronin v. Strayer*, 392 Mass. 525, 534 (1984), quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978).

As such, discovery should ordinarily be allowed under the concept of relevancy unless it is clear that the information sought can have no possible bearing upon the subject matter of the action. See *E.A. Miller, Inc., v. South Shore Bank*, 405 Mass. 95, 101 (1989) (holding that litigants should be afforded an opportunity for discovery where a party has “made even a minimal showing warranting the requested discovery").

III. ARGUMENT

A. The Requested Materials Are Directly Relevant And Crucial To Plaintiffs’ Emotional Distress Claims

The materials sought through the supplemental keeper of records subpoena are directly relevant to Plaintiffs’ claims. Plaintiffs’ emotional distress claims rest on Karen Read’s coordinated campaign with Aidan Kearney to promote a false narrative and pit the Read’s against the

O'Keefe's. Publicly communicating this false narrative directly resulted in frustrating justice for John O'Keefe and caused additional harm to the already grieving O'Keefe family. Karen Read's primary vehicle for disseminating this false narrative was her relationship with Aidan Kearney, who operates under the pseudonym "Turtleboy." Aidan Kearney manages various websites and social media accounts through which he publishes the inflammatory and harmful content at Karen Read's direction and active collaboration. As part of its investigation into Aidan Kearney, the Commonwealth obtained search warrants and ultimately seized multiple electronic devices including cell phones, laptops, cameras, SD cards, etc. The Plaintiffs have a good faith basis to believe that the data contained on these electronic devices will prove Plaintiffs' allegations and multiple aspects of their claims. Without relief, Plaintiffs cannot timely authenticate these materials.

B. The Plaintiffs Require These Materials Urgently In Order To Conduct Discovery In Their Civil Case

With the discovery deadline fast approaching in the civil matter, the Plaintiffs have an urgent need for these materials. Plaintiffs have noticed the deposition of Aidan Kearney and Karen Read and require communications and device extractions to effectively for and conduct that deposition. Additionally, Plaintiffs require these materials to prepare their cases. Without such materials the Plaintiffs will suffer prejudice.

IV. REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Honorable Court: (1) GRANT this Motion to Compel; (2) ORDER Aidan Kearney to produce all documents and materials responsive

to Plaintiffs' Supplemental Keeper of Records Subpoena within ten (10) days of the Court's Order; and (3) GRANT such other and further relief as this Court deems just and appropriate.

Date: 6/3/26

Respectfully submitted, Plaintiffs,
By Their Attorney,
/s/ Marc Diller
Marc Diller, Esq. BBO # 644997
DILLER LAW, LLP
50 Congress St. Suite 420
Boston, MA 02100
(617) 523-7771
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CERTIFICATE OF SERVICE

I, Marc Diller, hereby certify that on this day a true copy of the within document was served upon all counsel of record via E-Mail to:

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Dated: 6/3/26

/s/ Marc Diller

Marc Diller, Esq.

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EXHIBIT A

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss. SUPERIOR COURT DEPARTMENT
C.A. NO.: 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR & GRILL; and KAREN READ
Defendants.

RECORDS SUBPOENA

To: Aidan Kearney
111 Mason Road
Jefferson, MA 01522

Greetings:

YOU ARE HEREBY COMMANDED in the name of the Commonwealth of Massachusetts, pursuant to the provisions of Rule 45 of the Massachusetts Rules of Civil Procedure, to produce the documents identified in the attached **Schedule A** the offices of **Diller Law, LLP, 50 Congress Street, Suite 420, Boston, MA 02109.**

PLEASE NOTE: THIS SUBPOENA SUPERSEDES AND REPLACES IN ITS ENTIRETY THE PRIOR RECORDS SUBPOENA SERVED UPON YOU. THE BELOW-DESCRIBED DOCUMENTS MUST BE RECEIVED BY DILLER LAW, LLP ON OR BEFORE APRIL 30, 2026. PLEASE CONTACT UNDERSIGNED COUNSEL IF YOU HAVE ANY QUESTIONS.

HEREOF FAIL NOT, as failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court in which the action is pending.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

Respectfully Submitted,
The Plaintiffs,
By Their Attorney,

Daniel Buck, Esq.
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(617) 431-2423
DBuck@dillerlaw.com

Notary Public
My Commission Expires:

MARC DILLER
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Comm. Expires November 17, 2028

CERTIFICATE OF SERVICE

I, Marc Diller, Esq., do hereby certify that on April 20th, 2026, I caused a true and complete copy of the foregoing RECORDS SUBPOENA to be served via E-Mail upon all counsel of record.

Marc Diller, Esq.

Date Filed 6/30/2026 2:13 PM
Superior Court - Plymouth
Docket Number 2483CV00692

SCHEDULE A

I. Definitions

1. *The O'Keefe Family:* The term "The O'Keefe family" shall mean and include Paul O'Keefe, Margaret O'Keefe, John O'Keefe II, and the Furbush children.

2. *You/Your:* The term "you/your" shall refer to Aidan Kearney, individually and in any capacity, including but not limited to any entity, website, blog, social media account, or platform owned, operated, controlled or utilized by Aidan Kearney. Including but not limited to "Turtleboy," "TB Daily News," "Turtleboy Live," "Doctor Turtleboy," "Clarence Woods Emerson," and any other alias or pseudonym. These terms shall also include any and all agents, contractors, representatives, employees, attorneys, and/or other persons acting on behalf of, at the direction of, in concert with, or for the benefit of Aidan Kearney.

3. *Or/And* - The terms "or" and "and" shall be used interchangeably, to be interpreted in the broadest, most inclusive sense of the word.

4. *Karen Read*: The term "Karen Read" shall refer to defendant Karen Read, and where applicable, shall be construed to include any and all agents, contractors, representatives, attorneys, and/or other persons acting on behalf of or for the benefit of Karen Read at any point during the period from January 28, 2022, through the present.

5. *Read Family* – The term "Read family" shall mean and include Janet Read, William Read, Nathan Read, Kelly Read, Kaitlin Boudreau and all other persons related to Karen Read by blood, marriage, adoption, domestic partnership, or other familial relationship, including but not limited to parents, siblings, grandparents, aunts, uncles, cousins, nieces, nephews, in-laws, step-relatives, and any other individuals who may reasonably be considered members of Karen Read's extended family, whether or not specifically named herein.

6. *Communication*: The term "communication" shall mean and include, without limitation, letters, telegrams, telexed, intra or interoffice memoranda or communications, envelopes, emails, text messages, social media direct messages, and all other written and digital communications, tapes or other sound records and transcripts thereof, videotapes, films, and any documentation referring to or reflecting such oral communications.

7. *Document*: The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Mass. R. Civ. P. 34(a). An earlier draft is a separate document within the meaning of this term.

8. *Materials*: The term "materials" as used herein shall refer to and include any tangible or electronic item, object, or thing not otherwise encompassed by the terms "communication" or "document" that is subject to civil discovery.

9. *Data, and/or* Downloads: The terms "data" and/or "downloads" shall refer to and include all information whether in electronic, digital, or any other form capable of being stored, processed, retrieved, or transmitted.

10. *Exchanged*: The term "exchanged" shall mean transmitted, sent, received, or otherwise made available or accessible, whether directly or indirectly, between two or more persons or entities, regardless of the method or medium used, including but not limited to written correspondence, emails, text messages, instant messages, file transfers, shared access to documents or data repositories, or any other form of communication or transmission. The term "exchanged" shall be construed as including both one-way and reciprocal communications and transmissions.

11. *Intermediaries*: The term "Intermediaries" shall mean any third party that communicated at the direction of Karen Read to you. Including, but not limited to, Natalie Berschneider Wiweke, Jon Silvera, Catherine Quarantello, and Jennifer Altman.

12. *Device(s)*: The terms "Device" or "Devices" shall refer to and include any and all cell phones, smartphones, mobile phones, pay-as-you-go phones, prepaid phones, burner phones, tablets, iPads, laptop computers, desktop computers, notebook computers, smartwatches, fitness trackers, personal digital assistants (PDAs), digital cameras, video cameras, external hard drives, thumb drives, USB drives, flash drives, memory cards, or any other electronic device capable of creating, storing, transmitting, or receiving electronic data, whether owned, leased, borrowed, or otherwise in your possession, custody, or control at any time during the relevant time period

13. *Video Footage*: The term "video footage" shall refer to and include any and all recordings from any video or audio recording device.

14. *The Death of John O'Keefe III*: The term "the death of John O'Keefe III" shall refer to and include the events and circumstances surrounding the alleged wrongful death of John O'Keefe III.

15. *Investigation and Prosecution of Commonwealth v. Karen Read*: The term "investigation and prosecution of *Commonwealth v. Karen Read* shall refer to and include all investigative efforts by individuals, entities, or law enforcement agencies relating to the alleged wrongful death of John O'Keefe III. As well as, all stages of the criminal proceedings, indictments, arraignments, hearings, trials, retrials, sentencing, appeals, and all related filings, exhibits, transcripts, and other materials.

16. *Social Media Platforms and/or Accounts*: The terms "social media platforms" and/or "accounts" shall refer to and include, without limitation, any and all accounts, profiles, pages, channels, or presences maintained on any social media platform, social networking service, content-sharing website, or online communication platform, whether public or private, including but not limited to: Youtube, TikTok, X, Facebook, Instagram, LinkedIn, WhatsApp,

Signal, Facebook Messenger, Blog/content platforms, Reddit, and any other similar platforms now known or hereafter developed.

17. *Identity*: The term "identity" as used with respect to social media accounts shall mean all information identifying ownership, control, or use of such accounts, including but not limited to: the account owner's full legal name, usernames, handles, screen names, web address, and any other identifying information reflecting ownership.

II. Requests

1. During the period from January 29, 2022, through the present, all communications between you and Karen Read.

2. During the period from January 29, 2022, through the present, all communications related to the death of John O'Keefe between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

3. During the period from January 29, 2022, through the present, all communications related to the investigation and prosecution of *Commonwealth v. Karen Read* between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

4. During the period from January 29, 2022, through the present, all communications related to any member of the O'Keefe family between you and;
   A. Any member of Karen Read's legal defense team(s);
   B. Any member of the Read Family;
   C. Any Intermediaries.

5. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the death of John O'Keefe III.

6. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to the investigation and prosecution of *Commonwealth v. Karen Read*.

7. During the period from January 29, 2022, through the present all communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social

media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) by/to you related to any member of the O'Keefe family.

8. All voicemail recordings, and corresponding call logs, (including dates, times, numbers dialed, and durations, and any applicable transcripts thereof.) between you and;
   A. Any member of Karen Read's legal defense team(s);
   A. Any members of the O'Keefe family;
   B. Karen Read;
   C. Any Intermediaries;

9. As it relates to the investigation and/or prosecution of *Commonwealth v. Karen Read*, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

10. As it relates to the death of John O'Keefe III, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

11. As it relates to any member of the O'Keefe family, provide all photographs, video footage, data, and downloads on all devices in your possession from January 29, 2022, through the present.

12. Any and all information, extractions, documents, call logs, communications, and/or materials showing use of the "Signal" app as it relates to any communications made on it by you to:
   A. Karen Read
   B. Any member of Karen Read's legal defense team(s)
   C. Any intermediaries
   D. Any member of the Read family.

13. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the investigation and prosecution of *Commonwealth v. Karen Read*.

14. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the death of John O'Keefe III.

15. The identity and content of all social media platforms/accounts/blogs used and/or maintained by you that reference the O'Keefe Family.

16. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the investigation and prosecution of *Commonwealth v. Karen Read*.

17. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the death of John O'Keefe III.

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18. All investigative materials, documents, communications, reports, electronic communications, and information gathered relating to all blogs posted by you relating to the O'Keefe family.

19. All sources of information gathered, provided, received, and/or used in any way for any and all blog posts, articles, videos, live streams, live shows, podcasts, social media posts, and any other content published or broadcast under "Turtleboy," "TB Daily News," "Aidan Kearney," "DoctorTurtleboy," "Turtleboy Live," "Clarence Woods Emerson," or any other name, alias, or accounts owned by you.

20. All communications, including but not limited to emails, text messages, Facebook messages, Instagram messages, social media direct messages, and any other third-party messaging applications (such as Signal, WhatsApp, iMessage, Discord, etc.) made by/to you and any of the witnesses on the attached combined witness list in Exhibit A.

NOTE – IN LIEU OF APPEARANCE, CERTIEFIED AND COMPLETE RECORDS WILL BE ACCEPTED on or before **APRIL 30, 2026.** Kindly send or deliver the certified records to DILLER LAW, LLP – 50 Congress Street, Suite 420, Boston, MA 02109. Alternatively, the certified documents may be sent electronically to: DBuck@dillerlaw.com

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COMBINED WITNESS LIST
Commonwealth v. Karen Read

1. Aidan Kearney - Jefferson, MA
2. Aizik Wolf, MD - South Miami, Florida
3. Alfredo Lopilato - Canton, MA
4. Allison McCabe - Canton, MA
5. Andre Porto - Massachusetts State Police Crime Lab
6. Andrew Klane - Bridgewater, MA
7. Andrew Rentschler, PhD. - Pittsburg, PA
8. Angela Malvone - Canton, MA
9. Annie Cheung - Canton, MA
10. Anthony Flematti - Canton Fire Department
11. Ashley Bell - Canton, MA
12. Ashley Vaillier - Massachusetts State Police Crime Laboratory
13. Brian Albert - Norwood, MA
14. Brian Albert, Jr. - Boston, MA
15. Brian Higgins - Sandwich, MA
16. Brian Loughran - Canton, MA
17. Brian Wanless (Ret.) - Canton Police Department
18. Brigid Meehan - Keeper of Record - Canton, MA
19. Caitlin Albert - Easton, MA
20. Charles Ray, Lieutenant - Canton Police Department
21. Chief of Police Helena Rafferty - Canton Police Department
22. Chris Van Ee, PhD. - Novi, MI
23. Christina Hanley - Massachusetts State Police
24. Christopher Albert - Canton, MA
25. Christopher Curran - Canton, MA
26. Coleen Crawford - Norfolk District Attorney's Office - Canton, MA
27. Colin Albert - Canton, MA
28. Courtney Proctor - Canton, MA
29. Curt Roberts - Canton, MA

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30. Daniel Whitley - Canton Fire Department
31. Daniel Wolfe, Ph.D. - Penns Park, PA
32. Derek Ellington - Wake Forest, NC
33. Dr. Marie Russell, MD, CCHP-P - Los Angeles, CA
34. Elizabeth Laposata, MD, FCAP, FASCP - Providence, RI
35. Elizabeth Proctor - Canton, MA
36. Eric Hanlon – Canton, MA
37. Erin Beatty - Canton, MA
38. Erin O'Keefe - West Bridgewater, MA
39. Francis Walsh - Canton Fire Department
40. Garrett Wing - Green Cove Springs, FL
41. Garrey Faller - Brockton, MA
42. Gregory Woodbury - Canton Fire Department
43. Gretchen Voss - Boston, MA
44. Hannah Knowles - Massachusetts State Police Crime Laboratory
45. Heather Maxon - Walpole, MA
46. Heriberto Hernandez – Boston Police Department
47. Hollie Price - Mountain View, CA
48. Ian Whiffin - Vienna, VA
49. Irini Scordi-Bello - Commonwealth of Massachusetts- Office of the Chief Medical Examiner
50. James Crosby MS. Ph.D. - Jacksonville, FL
51. Jason Becker - Canton Fire Department
52. Jean DeMulis - Canton, MA
53. Jennifer McCabe - Canton, MA
54. Jessica Hyde - Bridgeport, NY
55. John O'Keefe, Sr. - Braintree, MA
56. Judson Welcher, Ph.D - Aperture LLC
57. Julie Albert - Canton, MA
58. Julie Nagel - Canton, MA
59. Justin Rice, M.D. - South Weymouth, MA
60. Juvenile K.F. - Canton, MA

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61. Juvenile P.F. - Canton, MA
62. Kaitlin Boudreau - Raynham, MA
63. Karina Kolokithas - Canton, MA
64. Katie Camerano - Canton, MA
65. Katie McLaughlin - Canton Fire Department
66. Keeper of Records for Ring – Hawthorne, CA
67. Kerri Curran - Canton, MA
68. Kerry Roberts - Canton, MA
69. Kevin Albert - Canton, MA
70. Kevin O'Hara - Massachusetts State Police
71. Lance Mello - Massachusetts State Police Crime Lab
72. Laura Sullivan - Pembroke, MA
73. Laurie Cahill - Worcester, MA
74. Leslie Pearlstein - Canton, MA
75. Lieutenant Michael Lank - Canton Police Department
76. Louis Jutrus - Canton, MA
77. Lt. Brian Tully - Massachusetts State Police
78. Lt. John Fanning - Massachusetts State Police
79. Lt. Paul Gallagher - Canton Police Department
80. Maggie Gaffney - Bonita Springs, FL
81. Marc Lopilato - Canton, MA
82. Margaret O'Keefe - Canton, MA
83. Marietta Sullivan - Pembroke, MA
84. Mary Souza - Dighton, MA
85. Matthew Amory - Canton, MA
86. Matthew DiSogra, MS, PE - Charlotte, NC
87. Matthew Erickson - Gross Pointe Farms, MI
88. Matthew Kelly - Canton Fire Department
89. Matthew Kelsch - Federal Bureau of Investigations
90. Matthew McCabe - Canton, MA
91. Maureen Hartnett - Massachusetts State Police Crime Lab
92. Meghan Mariani - New York, NY

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93. Michael Camerano - Canton, MA
94. Michael Easter - Los Angeles, CA
95. Michael Trotta - Canton Public Works - Canton, MA
96. Michael Wagner - Foxboro, MA
97. Mike Merolli - Bridgewater, MA
98. Mike Rushworth - Thompson Station, TN
99. Natalie Wiweke-Bershneider - San Marino, CA
100. Nathan Read - Raynham, MA
101. Nicholas Bradford - Lorton, VA
102. Nicholas Curran - West Roxbury, MA
103. Nicholas Kolokithas - Canton, MA
104. Nicole Albert - Norwood, MA
105. Norfolk County District Attorney Michael Morrissey - Norfolk County District Attorney's Office
106. Officer Kelly Dever - Boston Police Department
107. Officer Nicholas Barros - Dighton Police Department
108. Patrick Haggerty - Somerset, MA
109. Paul Mackowski - Melrose, MA
110. Paul O'Keefe - Canton, MA
111. Rebecca Baizen - Canton, MA
112. Rebecca Trayers - Norfolk, MA
113. Renee Stonebridge, M.D. - OCME - Bostone, MA
114. Richard Green - St. Pete Beach, FL
115. Richard D'Antuono - Canton, MA
116. Robert Gilman - Hull, MA
117. Ryan Nagel - Canton, MA
118. Sara Levinson - Canton, MA
119. Sergeant Brian Gallerani - Needham Police Department
120. Sergeant Sean Goode - Canton Police Department
121. Sgt. Paul J DiGiampietro – Canton Police Department
122. Sgt. Yuri Bukhenik – Massachusetts State Police

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123. Shanon Burgess - Southlake, TX
124. Sheryl Waugh - Canton, MA
125. Sophie Hryzan - Massachusetts State Police Crime Laboratory
126. Stephanie Devlin – Massachusetts State Police Crime Lab
127. Stephen Mullaney - Canton Police Department
128. Steve Nelson - Norfolk County District Attorney's Office
129. Steven Bernstein (Keeper of Records) - Stoughton, MA
130. Steven Ridge - Boston Police Department
131. Steven Saraf - Canton Police Department
132. Steven Scanlon - West Roxbury, MA
133. Teri Kun - Davis, CA
134. Tess Chart - Lorton, VA
135. Thomas Beatty - Canton, MA
136. Thomas Keleher - Canton, MA
137. Thomas Martin - Weymouth, MA
138. Timothy Nuttall - Canton Fire Department
139. Tristan Morris - Easton, MA
140. Trooper Connor Keefe - Massachusetts State Police
141. Trooper David Dicicco - Massachusetts State Police
142. Trooper Evan Brent – Massachusetts State Police
143. Trooper Jeffrey Kostkowski – Massachusetts State Police
144. Trooper Joseph Paul – Massachusetts State Police
145. Trooper Kathleen Prince – Massachusetts State Police
146. Trooper Michael Proctor – Massachusetts State Police
147. Trooper Nicholas Guarino - Massachusetts State Police
148. Trooper Zachary Clark - Massachusetts State Police
149. Wendell Robery - Canton, MA
150. William Read - North Dighton, MA

*Please note that the defense has not included the following names, which were included on the Commonwealth's Prospective Witness List: (1) Alan Jackson, Esq.; (2) David Yannetti, Esq.; and (3) Elizabeth Little, Esq. Defendant objects to the inclusion of Ms. Read's attorneys on the

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witness list. This request is not made in good faith. If the Commonwealth subpoenaed defense counsel in this case, it would constitute a gross violation of Rules of Professional Conduct 3.8, which prohibits prosecutors from subpoenaing a lawyer in a criminal proceeding to present evidence about a past or present client absent exceptional circumstances.

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Constable Jeffrey D. Silton
120 Cherry Street
W. Newton, MA 02465-1239
TEL: 617-527-7447

Invoice #: S0260421D
Date: APR 21, 2026
Customer ID: DILL01

Bill To:

Diller Law
Personal Injury Law
50 Congress Street, Suite 420
Boston, MA 02109

Attn: Mark Diller, Esq.

YOUR #	OUR #	TERMS
Paul O'Keefe V. Karen Read et al	S02604121D	Upon Receipt

DATE of SERVICE	ITEM	DESCRIPTION	SERVICE FEES
		Summons; Civil Action Cover Sheet; Complaint	
		Plymouth Superior C.A. No. 2483CV00692	
		Paul O'Keefe,	
		Estate of John Joseph O'Keefe III; Paul O'Keefe,	
		: vs. C&C Hospitality, LLC d/b/a C.F. McCarthy's;	
		G&S Hospitality, LLC d/b/a C.F. McCarthy's;	
4/21/2026	Subpoena Service	**SUPPLEMENTAL RECORDS SUBPOENA**	$ 80.00
		Aidan Kearney, 111 Mason Road, Jefferson, MA 01522	
		Service was made "Last & Usual" on 4-21-26 @ 2:06PM	
4/21/2026	Motor Vehicle	Motor Vehicle Charge (Newton - Jefferson)	$ 45.00
4/21/2026	Mailed COPY	COPY Mailed via First Class US Mail	$ 2.00
		BAL DUE	$ 127.00

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Commonwealth of Massachusetts **C.A. NO.: 2483CV00692**
Superior Court Department
Plymouth District

I HEREBY CERTIFY AND RETURN THAT ON APRIL 21 2026, I SERVED A COPY OF THE WITHIN **SUPPLEMENTAL RECORDS SUBPOENA** UPON THE "WITHIN NAMED PARTY" IN THE FOLLOWING MANNER SERVING hand usual @ 2:06 PM TO AIDAN KEARNEY PERSON AT 111 MASON ROAD IN THE TOWN OF JEFFERSON

I, ATTEST, A TRUE COPY WAS MAILED VIA FIRST CLASS US MAIL ON 4/21, 2026

SERVICE AND TRAVEL	$80
WITNESS FEE	
MOTOR VEHICLE	$45
MAILED COPY	$2
TOTAL:	$127

Jeffrey D. Silton

JEFFREY D. SILTON
CONSTABLE & DISINTERESTED PARTY
120 CHERRY STREET
W. NEWTON, MA 02465-1239
TEL: (617) 527-4229

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EXHIBIT B

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, ss

SUPERIOR COURT DEPARTMENT
C.A. 2483CV00692

PAUL O'KEEFE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF JOHN JOSEPH O'KEEFE III; PAUL O'KEEFE, INDIVIDUALLY; JOHN O'KEEFE II; MARGARET O'KEEFE; and MARGARET O'KEEFE AS GRANDPARENT / GUARDIAN OF KAYLEY FURBUSH;
Plaintiffs

v.

C&C HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; G&S HOSPITALITY, LLC d/b/a C.F. MCCARTHY'S; WATERFALL BAR & GRILL, LTD d/b/a WATERFALL BAR& GRILL; and KAREN READ;
Defendants

FILED
COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPT. OF THE TRIAL COURT
PLYMOUTH COUNTY
AUG 26 2024
Clerk of Court

PARTIES/JURISDICTION

1. The Plaintiff, Paul O'Keefe ("Paul"), is the surviving brother of the late John J. O'Keefe III ("JJ", "John" or "Decedent"), and is the duly appointed Personal Representative of the Estate of John Joseph O'Keefe III who died on or about January 29, 2022. At all relevant times material hereto, the Decedent resided in Canton, Norfolk County, Massachusetts. At all relevant times material hereto, the Plaintiff, Paul resided in W. Bridgewater, Plymouth County, Massachusetts.
2. The Plaintiff, John O'Keefe II ("John II"), is the surviving father of J.J. and Kristen. At all relevant times material hereto, the Plaintiff, John II resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.

3. The Plaintiff, Margaret O'Keefe ("Margaret"), is the surviving mother of JJ and Kristen. At all relevant times material hereto, the Plaintiff, Margaret resided at 1 Meadows Ave., Canton, Norfolk County, Massachusetts.
4. The Plaintiff, Kayley Furbush ("Kayley"), is the surviving niece of the late John J. O'Keefe III. At all relevant times material hereto, the Plaintiff, Kayley was under the guardianship of John and resided in Canton, Norfolk County, MA.
5. At relevant times, the defendant, C&C Hospitality, LLC d/b/a C.F. McCarthy's is an independently owned restaurant with a usual place of business at 614 Washington St., Canton, Norfolk County, Massachusetts. (C.F. McCarthy's). C.F. McCarthy's had a resident agent, Steven B. Carey, 973 Furnace Brook Parkway, Quincy, Norfolk County, Massachusetts. C.F. McCarthy's presently appears to be operated by G&S Hospitality, LLC, whose date of organization was 4-24-2023. G&S Hospitality, LLC d/b/a C.F. McCarthy's has the same location of business and same resident agent as C&C Hospitality, LLC. Any averments referencing or counts against C.F. McCarthy's should be assumed to incorporate either or both entities listed here.
6. The defendant, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill is a domestic corporation with a usual place of business at 643 Washington Street, Canton, Norfolk County, Massachusetts (Waterfall). Waterfall has a registered agent, Gerard Meehan, located at 19 Ames Avenue, Canton, Norfolk County, Massachusetts.
7. The defendant, Karen Read ("Read") is an individual residing at 481 Gilbert St., Mansfield, Bristol County, Massachusetts.

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FACTS

8. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, all prior paragraphs of the Complaint.

9. The decedent, JJ, was the middle of three (3) children, in a tight-knit family. JJ was a third generation Boston Police Officer. After the tragic death of JJ's sister, Kristen, and brother-in-law, Steve, JJ took custody / guardianship of his niece (Kayley) and nephew (Patrick), who were six and three, respectively. Over the next eight years, until his tragic passing, JJ raised and supported his niece and nephew.

10. After the tragic death of JJ, Margaret took guardianship / custody of her grandchildren, Kayley and Patrick.

11. At all relevant times on or before January 29, 2022, JJ and defendant Read were in a dating relationship.

12. In the months, weeks and days leading up to January 29, 2022, JJ and defendant Read's relationship was deteriorating. During such time, defendant Read picked fights, experienced jealousy and had delusions of unfaithfulness.

13. On or about January 28, 2022, defendant Read knew that her relationship with JJ had run its course.

14. On January 28, 2022, at or about 8:51 pm, Plaintiff arrived at C.F. McCarthy's.

15. C.F. McCarthy's was licensed to distribute, sell, or serve alcohol.

16. On January 28, 2022, at or about 8:58 pm, C.F. McCarthy's served Read an alcoholic beverage. Read consumed said drink.

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17. On January 28, 2022, C.F. McCarthy's, through its agents, servants or employees, served alcoholic beverages to defendant Read at or about 9:13 pm, 9:20 pm, 9:33 pm, 9:57 pm, 10:22 pm, and 10:29 pm. Read consumed such drinks.

18. C.F. McCarthy's, through its agents, servants or employees, served defendant Read seven (7) alcoholic drinks between 8:58 pm and 10:29 pm on January 28, 2022.

19. During all relevant times at or before 10:29 pm on January 28, 2022, defendant Read showed signs of intoxication while at C.F. McCarthy's.

20. On January 28, 2022, at or about 10:40 pm, JJ and defendant Read left C.F. McCarthy's.

21. On January 28, 2022, at or about 10:40 pm, defendant Read was allowed to carry her alcoholic drink out of C.F. McCarthy's.

22. On January 28, 2022, at or about 10:54 pm, JJ and defendant Read entered Waterfall together.

23. At all relevant times, Waterfall was licensed to distribute, sell, or serve alcohol.

24. Defendant Read walked into Waterfall carrying a drink from C.F. McCarthy's.

25. At all relevant times on January 29, 2022, while at Waterfall, defendant Read showed signs of intoxication.

26. Between 10:54 pm and 11:54 pm on January 28, 2022, defendant Waterfall served Read one shot and one mixed alcoholic drink. Read consumed such drinks..

27. On January 29, 2022, at approximately 12:10 am, defendant Read left Waterfall.

28. On January 29, 2022, at approximately 12:11am, JJ left Waterfall.

29. At all relevant times on January 29, 2022, between 12:11 am and 12:36 am, defendant Read was under the influence of alcohol and unable to drive a motor vehicle safely.

30. At all relevant times on January 29, 2022, defendant Read drove JJ to the residence of 34 Fairview Road in Canton, Norfolk County, Massachusetts.

31. Defendant Read and JJ had been in an argument the night of January 28, 2022, into the early morning of January 29, 2022.

32. After JJ got out of defendant Read's vehicle in front of 34 Fairview Rd. on January 29, 2022, Read drove her SUV and hit JJ.

33. At all relevant times on January 29, 2022, defendant Read drove her SUV in a state of intoxication.

34. As a result of Read's SUV hitting JJ on January 29, 2022, JJ was knocked down onto the ground in front of 34 Fairview Rd., suffered serious injury and died.

35. After hitting JJ with her SUV, defendant Read fled the scene and returned to JJ's residence at 1 Meadows Ave.

36. At all relevant times, defendant Read knew that it was snowing, knew there was an impending blizzard and knew or should have known that leaving JJ outside in the blizzard would likely result in serious injury or death.

37. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read:

    a. Failed to use any care to avoid creating an unreasonable risk of harm to the public and JJ;

    b. Voluntarily took an obvious risk under the circumstances, knew or should have known that death or serious injury was reasonably predictable;

    c. Persisted in a clearly negligent course of conduct over a noticeable period of time;

    d. Was impatient with reasonable precautions;

    e. Was deliberately inattentive to the predictable hazards of her actions; and/or

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f. Was deliberatively inattentive when there was a risk of great and immediate danger.

38. At all relevant times when defendant Read drove her SUV and hit JJ, defendant Read was reckless when:

a. She intended the reckless conduct that resulted in JJ's injuries/death;

b. Her conduct made it highly likely that someone, namely JJ, would suffer serious injury or die;

c. She knew or had reason to know of the risk of grave injury or death to JJ; or said risk would have been obvious to a reasonable person; and

d. She intentionally or unreasonably disregarded that risk.

e. JJ's injuries or death resulted from defendant Read's decision to engage in the conduct referenced above in 16-17, 26 and 37 a.-d.

39. On January 29, 2022, at approximately 4:30 am, defendant Read knew that she hit JJ with her SUV. Nevertheless, she woke up JJ's 14-year-old niece Kayley and talked about JJ's death, talked about hitting JJ with her SUV and otherwise involved Kayley in her frantic calls about JJ's death.

40. At all relevant times on or about January 29, 2022, defendant Read knew that Kayley was a vulnerable minor, who already lost her parents tragically and depended on her custodial uncle, JJ, who became her surrogate parent.

41. At or about 5:07 am on January 29, 2022, defendant Read left 1 Meadows Ave.

42. Between 5:18 am and 5:35 a.m., defendant Read knew JJ was seriously injured, buried in the snow and laying on the ground in front of 34 Fairview Rd., Canton, where defendant Read left JJ to die hours earlier.

43. On January 29, 2022, defendant Read admitted repeatedly that she hit JJ.

44. At or about 6:03 am on January 29, 2022, defendant Read arrived at 34 Fairview Rd., Canton and immediately observed JJ laying on the ground, buried in the snow, where she had earlier left him to die.

45. At relevant times on January 29, 2022, JJ suffered trauma injuries before becoming hypothermic.

46. At or about 7:50 am on January 29, 2022, JJ was pronounced dead at the Hospital.

47. At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence.

48. On January 29, 2022, defendant Read's blood was drawn reading of 93 mg/dl.

A serum conversion and retrograde extrapolation was done of the results of defendant Read's blood, with the results showing her BAC would have been between .13% - .29% around the time she drove the SUV and hit JJ.

49. Read's BAC of .13% - .29% all exceeds the legal limit to drive a motor vehicle in Massachusetts.

50. At relevant times on or about January 29, 2022, defendant Read drove her SUV while under the influence of alcohol and hit JJ with her SUV.

51. As a direct and/or proximate cause of Read's drunk driving, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

52. Notwithstanding her 5th amendment right not to speak; defendant Read chose to speak publicly. She knowingly and deliberately changed her story and fabricated a conspiracy

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knowing the same to be false. She publicly communicated this false narrative thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress.

53. The Plaintiffs listed above bring this Complaint seeking full and complete JUSTICE FOR JJ.

COUNT I

The Estate of John Joseph O'Keefe III v. C.F. McCarthy's – WRONGFUL DEATH M.G.L. c. 229, § 2

54. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

55. Defendant C.F. McCarthy negligently served alcohol to an intoxicated person, namely defendant Read. Defendant knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

56. Defendant C.F. McCarthy violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at C.F. McCarthy's at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

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57. The defendant C.F. McCarthy's acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

58. The defendant C.F. McCarthy's acted with gross negligence.

59. The defendant C.F. McCarthy's acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

60. The defendant C.F. McCarthy's deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. C.F. McCarthy's persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

61. Defendant C.F. McCarthy's continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

62. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

63. As a direct and proximate result of defendant C.F. McCarthy's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

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WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant C.F. McCarthy's, on Count I, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT II

The Estate of John Joseph O'Keefe III v. Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill – WRONGFUL DEATH M.G.L. c. 229, § 2

64. The Estate repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

65. Defendant Waterfall negligently served alcohol to an intoxicated person, namely defendant Read. Defendant Waterfall knew or should have known that defendant Read was intoxicated at relevant times of service on January 28, 2022.

66. Defendant Waterfall violated Massachusetts' Dram Shop laws, company safety policies and was otherwise negligent for numerous reasons including, but not limited to:

a. its decision not to hire competent employee(s)/staff/bartender(s)/server(s);

b. its decision not to provide adequate personnel to work at Waterfall at relevant times;

c. its decision not to provide adequate safety training to its employee(s)/staff/bartender(s)/server(s);

d. its decision to violate its safety training;

e. its choice to retain unfit employee(s)/staff/bartender(s)/server(s);

f. its choice not to supervise adequately its employee(s)/staff/bartender(s)/server(s)

67. The defendant Waterfall acted not only with indifference to its legal duty not to serve intoxicated patrons; but also with utter forgetfulness of said duty.

68. The defendant Waterfall acted with gross negligence.

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69. The defendant Waterfall acted with willful, wanton and reckless disregard for the safety of others when it served an intoxicated defendant Read.

70. The defendant Waterfall deliberately ignored the appreciable risk and/or voluntarily incurred the obvious risk of serving defendant Read when she was already intoxicated. Waterfall persisted in serving Read alcohol well after it knew that defendant Read was visibly intoxicated.

71. Defendant Waterfall continued to serve defendant Read alcohol at relevant times when Read was already intoxicated.

72. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

73. As a direct and proximate result of defendant Waterfall's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the defendant Waterfall, on Count II, plus costs, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

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COUNT III

The Estate of John Joseph O'Keefe III v. Karen Read – WRONGFUL DEATH M.G.L. c. 229, § 2

74. Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

75. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty not to drive drunk, to drive her vehicle safely and/or with due care.

76. On the date of the crash, and at all relevant times, defendant Read owed JJ and the public at large a duty to pay attention to the roadway.

77. On January 29, 2022, and at all relevant times, defendant Read breached her duty(ies) of care to JJ by driving drunk, driving in an unsafe manner and/or without due care.

78. As a direct and/or proximate cause of defendant Read's negligence, gross negligence and/or willful, wanton and reckless disregard for safety, JJ sustained serious injuries of body and mind, conscious pain and suffering, fear of impending death, lost earnings, medical, funeral and burial expenses, and died.

79. As a direct and proximate result of defendant Read's negligence, gross negligence, and/or willful, wanton disregard for safety, JJ's next of kin suffered as well. JJ's next of kin are entitled to JJ's "lost value" resulting from his wrongful death. Such damages include, but are not limited to, reasonably expected society, companionship, comfort, guidance, counsel, net income, services, assistance, protection, care and advice to each next of kin.

WHEREFORE, the Estate of John Joseph O'Keefe III, demands judgment against the Defendant, Karen Read, on COUNT III for all damages to which the estate is entitled under M.G.L.

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c. 229 §2, compensatory and punitive damages, lost value to next of kin and any other relief this Court deems appropriate.

COUNT IV

Margaret O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

80. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

81. At all relevant times, Margaret O'Keefe was the mother of JJ.

82. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter. C.F. McCarthy's negligence caused the death of Margaret's son, JJ.

83. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

84. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

85. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count IV, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT V

John O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

86. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

87. At all relevant times, John O'Keefe II was the father of JJ.

88. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter..

89. C.F. McCarthy's negligence caused the death of John II's son, JJ.

90. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

91. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

92. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count V, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VI

Paul O'Keefe v. C.F. McCarthy's – Negligent Infliction of Emotional Distress

93. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

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94. At all relevant times, Paul O'Keefe was the brother of JJ.

95. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

96. C.F. McCarthy's negligence caused the death of Paul's brother, JJ.

97. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of C.F. McCarthy's negligence.

98. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant C.F. McCarthy's negligence.

99. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, C.F. McCarthy, on Count VI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VII

Margaret O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

100. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

101. At all relevant times, Margaret O'Keefe was the mother of JJ.

102. Margaret O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

103. Waterfall's negligence caused the death of Margaret's son, JJ.

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104. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

105. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

106. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT VIII

John O'Keefe v. Waterfall– Negligent Infliction of Emotional Distress

107. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

108. At all relevant times, John O'Keefe II was the father of JJ.

109. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

110. Waterfall's negligence caused the death of John II's son, JJ.

111. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

112. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

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113. A reasonable person in the same position as John O'Keefe II at the time of JJ 's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count VIII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT IX

Paul O'Keefe v. Waterfall – Negligent Infliction of Emotional Distress

114. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, previous paragraphs of the Complaint.

115. At all relevant times, Paul O'Keefe was the brother of JJ.

116. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

117. Waterfall's negligence caused the death of Paul's brother, JJ.

118. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Waterfall's negligence.

119. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Waterfall's negligence.

120. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Waterfall, on Count IX, plus interest, costs and any other relief or damages this Court deems appropriate.

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COUNT X

Margaret O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

121. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety the preceding Paragraphs of the Complaint.

122. At all relevant times, Margaret O'Keefe was the mother of JJ.

123. Margaret O'Keefe learned of JJ's admission to Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

124. Defendant Read's negligence caused the death of Margaret's son, JJ.

125. Margaret suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

126. Defendant Read outrageously created a false narrative.

127. Margaret's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

128. A reasonable person in the same position as Margaret O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count X, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XI

John O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

129. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

130. At all relevant times, John O'Keefe II was the father of JJ.

131. John O'Keefe II learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

132. Karen Read's negligence caused the death of John II's son, JJ.

133. John II suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

134. Defendant Read outrageously created a false narrative.

135. John II's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

136. A reasonable person in the same position as John O'Keefe II at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XI, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XII

Paul O'Keefe v. Karen Read – Negligent and/or Reckless Infliction of Emotional Distress

137. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

138. At all relevant times, Paul O'Keefe was the brother of JJ.

139. Paul O'Keefe learned of JJ's admission to the Hospital immediately and came upon JJ's body at the Hospital shortly thereafter.

140. Karen Read's negligence caused the death of Paul's brother, JJ.

141. Paul suffered severe and profound emotional injuries manifesting in physical symptoms as the result of observing JJ at the Hospital and witnessing the consequences of Read's negligence.

142. Defendant Read outrageously created a false narrative

143. Paul's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's negligence.

144. A reasonable person in the same position as Paul O'Keefe at the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XII, plus interest, costs and any other relief or damages this Court deems appropriate.

COUNT XIII

Kayley Furbush v. Karen Read – Negligent, Reckless and/or Intentional Infliction of Emotional Distress

145. The Plaintiff repeats, re-alleges, and incorporates by reference as set forth hereto in their entirety, prior paragraphs of the Complaint.

146. At all relevant times, Kayley was the niece of JJ. JJ was her guardian since her parents passed away.

147. Kayley learned of JJ's death or injury when defendant Read woke Kayley up at approximately 4:30 am on January 29, 2022.

148. Defendant Read knew Kayley was vulnerable, having already lost her parents at age six.

149. Nevertheless, in Kayley's presence, defendant Read spoke on speaker phone to various people between 4:30 am and 5:00 am on January 29, 2022.

150. At relevant times on January 29, 2022, Kayley heard defendant Read say "(JJ) never came home... Maybe I did something... Maybe a snow plow hit him... Maybe I had hit him.... Maybe I hit him... (we) were in an argument... Maybe he got hit by a snow plow."

151. As a result of the conversations defendant Read had in her presence, Kayley perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event.

152. At or about 5:00 am, after waking Kayley up and informing her that something happened to JJ, defendant Read left Kayley home alone.

153. Defendant Read intentionally and/or recklessly inflicted severe emotional distress when she woke up Kayley and informed her that she hit her uncle or that a snow plow hit her uncle.

154. Defendant Read either intended to inflict emotional distress in Kayley, or knew or should have known that emotional distress was likely to result from defendant Read's conduct.

155. Defendant Read's conduct was extreme and outrageous, beyond the bounds of decency and was utterly intolerable.

156. Then, after JJ was declared dead, defendant Read came to the family house and feigned concern. Rather, it became clear that defendant Read was only there to collect her belongings and to take possession of the murder weapon.

157. The emotional distress suffered by Kayley was severe and of a nature that no reasonable person could be expected to endure it.

158. Defendant's extreme and outrageous conduct caused Kayley aggravated emotional distress manifesting in physical symptoms.

159. Kayley also suffered severe and profound emotional injuries as the result of perceiving JJ JJ's death and/or the injurious producing event, the consequences of Read's negligence.

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160. Then, defendant Read outrageously created a false narrative

161. Kayley's emotional injuries, severe physical pain, anguish, emotional distress and other harm were directly and/or proximately caused by defendant Read's actions.

162. A reasonable person in the same position as Kayley Furbush at relevant times including the time of JJ's death would have suffered severe and profound emotional distress.

WHEREFORE, plaintiff demands judgement against the defendant, Karen Read, on Count XIII, plus interest, costs and any other relief or damages this Court deems appropriate.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL COUNTS

8/23/24

The Plaintiffs,
By Their Attorneys:

/s/Marc Diller
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EXHIBIT C

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COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS

SUPERIOR COURT
CIVIL ACTION
NO. 2483CV00692

PAUL O'KEEFE[1] & others[2]

v.

C & C HOSPITALITY, LLC d/b/a C. F. MCCARTHY'S & others[3]

MEMORANDUM AND ORDER ON DEFENDANTS' PARTIAL MOTIONS TO DISMISS PURSUANT TO MASS. R. CIV. P. 12(b)(6) (Paper Nos: 37, 37.3, 37.4)

This matter arises out of the January 29, 2022, death of John Joseph O'Keefe, III ("JJ").[4] Defendant and moving party, Karen Read ("Read"), was previously charged with several crimes in connection with JJ's death. During the pendency of Read's criminal case, plaintiffs Margaret O'Keefe ("Margaret," JJ's mother), John O'Keefe, II ("John," JJ's father), Paul O'Keefe ("Paul," JJ's brother and personal representative of JJ's estate), and Kayley Furbursh ("Kayley," JJ's niece) filed this civil lawsuit asserting claims against Read for Wrongful Death (Count III), Negligent and/or Reckless Infliction of Emotional Distress (Counts X, XI, and XII), and Negligent, Reckless, and/or Intentional Infliction of Emotional Distress (Count XIII).

The plaintiffs also asserted claims for Wrongful Death (Counts I and II), and Negligent Infliction of Emotional Distress (Counts IV, V, VI, VII, VIII, and IX) against C&C Hospitality,

[1] Individually and as Personal Representative of the Estate of John Joseph O'Keefe, III

[2] John O'Keefe, II, Margaret O'Keefe and Margaret O'Keefe as Grandparent/Guardian of Kayley Furbush

[3] G&S Hospitality, LLC d/b/a C.F. McCarthy's, Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill, and Karen Read

[4] For purposes of clarity, consistent with the complaint, the court refers to the decedent by the nickname provided by the plaintiffs.

10/3/2025
C.C.: M.D., D.B., T.H., L.R., J.A.D., J.M.D., C.L.M., D.H., C.E.M., E.L., W.K., A.J., D.S., C.W., A.R., C.G., M.P.,

LLC d/b/a C.F. McCarthy's, G&S Hospitality, LLC d/b/a C.F. McCarthy's (collectively, "C.F. McCarthy's") and Waterfall Bar & Grill, LTD d/b/a Waterfall Bar & Grill ("Waterfall"). These defendants are corporate entities that owned bars that allegedly served Read alcohol in the hours leading up to the events at issue.

Read filed a motion to dismiss all emotional distress claims asserted against her. C.F. McCarthy's and Waterfall joined on Read's motion to dismiss, similarly seeking to dismiss the emotional distress claims asserted against them.[5] For the foregoing reasons, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to Kayley's claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.

BACKGROUND

The following facts are drawn from the plaintiffs' complaint and accepted as true for purposes of this motion.[6]

On January 28, 2022, Read patronized C.F. McCarthy's from 8:51 p.m. through 10:29 p.m. She consumed seven alcoholic drinks during that timeframe. Read then patronized Waterfall from 10:54 p.m. that night through 12:10 a.m. the next morning. She consumed two alcoholic drinks during that timeframe. Her blood was drawn on January 29, 2022, and testing revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

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[5] C.F. McCarthy's and Waterfall's motions are technically motions for judgment on the pleadings pursuant to Mass. R. Civ. P. 12(c), as they previously filed answers to the plaintiffs' complaint. However, a "defendant's rule 12(c) motion is actually a motion to dismiss that argues that the complaint fails to state a claim upon which relief can be granted" (quotations omitted). *Jarosz* v. *Palmer*, 436 Mass. 526, 529 (2002). Thus, the court will apply the same legal framework for C.F. McCarthy and Waterfall's motions as that used in assessing Read's motion to dismiss.

[6] The court also considers facts contained in matters of public record, pursuant to *Marram* v. *Kobrick Offshore Fund, Ltd*, 442 Mass. 43, 45 n.4 (2004). These facts are reserved for discussion below.

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revealed that her blood alcohol content would have been between .13% and .29% after leaving Waterfall.

During the timeframe relevant to the instant lawsuit, Read and JJ were in a dating relationship. JJ was with Read that evening, and they had been arguing. After leaving Waterfall, Read got into a motor vehicle with JJ and drove to a residence at 34 Fairview Road in Canton while intoxicated. After arriving at the residence, JJ exited Read's vehicle. Read then drove her vehicle and hit JJ. JJ was knocked to the ground, suffering serious injuries that ultimately led to his death.

Read fled the scene and drove to JJ's residence at 1 Meadows Avenue in Canton. At approximately 4:30 a.m. on January 29, 2022, Read woke up JJ's niece, Kayley, who lived with JJ. Read began discussing JJ's death with Kayley and talked about striking him with her vehicle. "Kayley heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Read also called multiple people between 4:30 a.m. and 5:00 a.m. on January 29, 2022, while in Kayley's presence. At the time, Read knew Kayley was a vulnerable minor who had previously lost both parents and lived with JJ as her surrogate parent.

Read left JJ's residence at approximately 5:07 a.m. on January 29, 2022. She arrived at 34 Fairview Road at approximately 6:03 a.m. and discovered JJ buried in snow. JJ was pronounced dead at a hospital at 7:50 am. "At relevant times after 7:50 am on January 29, 2022, defendant Read went to the grieving house of JJ, feigned comfort to JJ's family, and used the opportunity to, amongst other things, remove the offending weapon, her vehicle, and/or destroy relevant evidence." Complaint, paragraph 47.

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Subsequently, over the course of several years, Read made many public statements. "She knowingly and deliberately changed her story and fabricated a conspiracy knowing the same to be false. She publicly communicated this false 'narrative' thereby frustrating Justice for JJ. Such false narrative caused the Plaintiffs aggravated emotional distress." Complaint, paragraph 52.

DISCUSSION

The defendants argue that the emotional distress claims should be dismissed for multiple reasons: 1) distress claims are subsumed by the wrongful death statute; 2) the plaintiffs' claimed distress was not contemporaneous with JJ allegedly being struck by Read's vehicle; 3) there was no extreme or outrageous conduct direct towards the plaintiff that resulted in severe harm; and 4) Kayley's claims for emotional distress fail as a matter of law. The court will address each of these arguments in turn.

A. Standard of Review

To survive a motion to dismiss for failure to state a claim pursuant to Mass. R. Civ. P. 12 (b)(6), a complaint must contain "factual 'allegations plausibly suggesting (not merely consistent with)' an entitlement to relief." *Iannacchino* v. *Ford Motor Co.*, 451 Mass. 623, 636 (2008), quoting *Bell Atl. Corp.* v. *Twombly*, 550 U.S. 544, 557 (2007). The factual allegations must be "more than labels and conclusions" and "raise a right to relief above the speculative level." *Iannacchino*, 451 Mass. at 636, quoting *Bell Atl. Corp.*, 550 U.S. at 555. In assessing a complaint under Rule 12(b)(6), the court accepts as true the well-pleaded factual allegations in the complaint and draws all reasonable inferences in the claimant's favor. See *Fairhaven Hous. Auth.* v. *Commonwealth*, 493 Mass. 27, 30 (2023).

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The extent of the court's review generally is limited to the factual allegations in the complaint and any facts contained in any attached exhibits. See *Eigerman* v. *Putnam Invs., Inc.*, 450 Mass. 281, 285 n.6 (2007). However, the court also may consider matters of public record, items in the record of the case, and documents cited and relied upon in the complaint. *Schaer* v. *Brandeis Univ.*, 432 Mass. 474, 477 (2000).

B. Wrongful Death Statute and Emotional Distress Claims

The defendants argue that the plaintiffs' emotional distress claims are subsumed by the Massachusetts wrongful death statute, G. L. c. 229, § 2. Among other provisions, the statute identifies the following as recoverable damages:

> "the fair monetary value of the decedent to the persons entitled to receive the damages recovered, as provided in section one, including but not limited to compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent to the persons entitled to the damages recovered."

G. L. c. 229, § 2.

Thus, the wrongful death statute contemplates some degree of emotional distress arising from a decedent's death. It addresses the loss of care, assistance, companionship, comfort, guidance, counsel, and advice, all of which go to the relationship between a decedent and individuals pursuing claims under the statute.

The defendants argue that the independent emotional distress claims asserted by the plaintiffs are redundant to the plaintiffs' wrongful death assertions and consequently should be dismissed. This argument is inconsistent with established Massachusetts case law. In *Cimino* v. *Milford Keg, Inc.*, 385 Mass. 323 (1982), the Supreme Judicial Court ("SJC") held:

> "The defendant's . . argument that the plaintiff's claim for emotional distress is 'preempted' by the wrongful death action (G.L. c. 229, s 2) misconstrues the common law cause of action for emotional distress. Emotional distress, as the concept has evolved in this Commonwealth, is a severe psychological shock directly resulting from

> experiencing or witnessing the effects of a defendant's conduct. . . . A claim for damages based on emotional distress does not include an administrator's claim for loss of consortium-which will be present in every wrongful death action such as this. Since emotional distress is a wrong to the plaintiff distinct from that done to [the decedent] and the statutory beneficiaries of the decedent, it is not a duplicative remedy and is not 'preempted' by the wrongful death statute." (quotations omitted).

Cimino, 385 Mass. at 334.

Here, the plaintiffs' direct emotional distress claims go beyond the mere fact that JJ died. Instead, they point to the alleged wrongs they suffered in their individual capacities. They aver that they suffered such harm in observing JJ just after his death, having Read attend family events in the immediate aftermath of JJ's death, and Read developing a public and false narrative that frustrated justice for JJ. These claims are separate from JJ's death and instead are specific to the distress the plaintiffs assert in their individual capacities, rather than their status as relatives of JJ pursuant to the wrongful death statute.

Therefore, the defendants' motions are **DENIED** as to their arguments regarding emotional distress and the wrongful death statute.

C. Negligent Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for negligent infliction of emotional distress because their alleged distress did not occur contemporaneously with the accident giving rise to JJ's death. This argument is inconsistent with established Massachusetts case law. In *Stockdale* v. *Bird & Son, Inc.*, 399 Mass. 249 (1987), the SJC stated:

> "In *Dziokonski* v. *Babineau,* 375 Mass. 555, 568 (1978), we held that 'allegations concerning a parent who sustains substantial physical harm as a result of severe mental distress over some peril or harm to his minor child caused by the defendant's negligence state a claim for which relief might be granted, where the parent either witnesses the accident or soon comes on the scene while the child is still there.' Two years later, in *Ferriter* v. *Daniel O'Connell's Sons,* 381 Mass. 507, 518, we held that the wife and children of an employee allegedly injured through his employer's negligence could maintain an action for negligent infliction of emotional distress, even though they first observed the employee in a hospital immediately after the accident. We said that '[a]

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> plaintiff who rushes onto the accident scene and finds a loved one injured has no greater entitlement to compensation for that shock than a plaintiff who rushes instead to the hospital. So long as the shock follows closely on the heels of the accident, the two types of injury are equally foreseeable.' *Id.*"

Stockdale, 399 Mass. at 251.

Thus, a family member is entitled to emotional distress damages when they either witness the decedent's actual injury or "come upon the injured [kin] promptly after the injury." *Nancy P.* v. *D'Amato*, 401 Mass. 516, 520 (1988).

The plaintiffs allege that Read discovered JJ buried in the snow at approximately 6:03 a.m. on January 29, 2022, and he was subsequently pronounced dead at a hospital at 7:50 a.m. that day. Margaret, John, and Paul each aver that they "learned of JJ's admission to [ ] Hospital immediately and came upon JJ's body at the Hospital shortly thereafter." Complaint, paragraphs 82, 88, 95, 102, 109, 116, 123, 131, and 139. Against this backdrop, the complaint alleges sufficient facts that JJ's parents and brother arrived promptly at the hospital upon learning of JJ's death and thus have actionable claims for negligent infliction of emotional distress.

Kayley's negligent infliction of emotional distress claim stands on different footing, however. She alleges that she "learned of JJ's death or injury when defendant Read woke Kayley up approximately 4:30 am on January 29, 2022." Complaint, paragraph 147. Further, Kayley alleges she "heard defendant Read say '(JJ) never came home . . . Maybe I did something . . . Maybe a snow plow hit him . . . Maybe I had hit him . . . Maybe I hit him . . . (we) were in an argument . . . Maybe he got hit by a snow plow." Complaint, paragraph 150. Lastly, Kayley states that, as a result of Read's conversations in her presence, she "perceived the injuries caused to her guardian, uncle JJ, and perceived the injury producing event." Complaint, paragraph 151.

Taken together, the complaint does not allege that Kayley learned of JJ's death or injury at 4:30 a.m., but instead learned he was maybe injured at that time. There are also no averments

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regarding when and the circumstances under which she first observed the deceased JJ. Her averments concern her perceptions of JJ's injuries, rather than her actual observations.

The case law cited by the parties addresses scenarios whereby a family member has observed another family member actually being injured or otherwise suffering shock after promptly encountering the injured family member. Kayley cannot make this showing. In making this assessment, the court acknowledges the following case law cited in the plaintiffs' opposition:

> "the determination whether there should be liability for the injury sustained depends on a number of factors, such as where, when, and how the injury to the third person entered into the consciousness of the claimant, and what degree there was of familial or other relationship between the claimant and the third person" (emphasis in original).

Dziokonski, 375 Mass. at 568.

Such language is inapposite here, as the *Dziokonski* court's decision turned on liability for negligent infliction of emotional distress and the parameters for when a family member arrived at the scene of an accident giving rise to a relative's injury. *Stockdale* extended the scope of *Dziokonski* to family members who promptly arrive at a hospital. Neither of these cases, nor any other cases provided by the parties, creates authority to find negligent infliction of emotional distress for family members who learn of a death beyond this prompt timeframe. Thus, *Dziokonski*'s language about when JJ's injury "entered into the consciousness of the claimant" does not support Kayley's claim for negligent infliction of emotional distress.

Therefore, the defendants' motions are **DENIED** as to Margaret, John, and Paul's claims for negligent infliction of emotional distress and **ALLOWED** as to Kayley's claim for negligent infliction of emotional distress.

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D. Reckless Infliction of Emotional Distress

The defendants argue that none of the plaintiffs have actionable claims for reckless infliction of emotional distress because there was no extreme or outrageous conduct directed towards them that resulted in severe harm.[7] In the context of such claims, conduct is "extreme and outrageous" if it "goes beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community" (quotations omitted). *Roman* v. *Trustees of Tufts Coll.*, 461 Mass. 707, 718 (2012). The standard of extreme and outrageous conduct is a high bar. Such conduct means more than "workaday insults, annoyances, or even threats and petty oppressions . . . . It means, for example, a high order of reckless ruthlessness or deliberate malevolence that . . . is simply intolerable" (quotations omitted). *Conway* v. *Smerling*, 37 Mass. App. Ct. 1, 8 (1994).

The plaintiffs allege that Read developed a narrative surrounding JJ's death, which caused them to suffer emotional distress. In support of their opposition to the instant motions, they have produced a search warrant affidavit, which is a matter of public record that the court may consider in assessing whether the complaint plausibly suggests an entitlement to relief.[8]

According to the search warrant materials, on January 22, 2024, Detective Lieutenant Brian Tully ("Tully") of the Massachusetts State Police applied for a warrant to seize "[a]ny

[7] With reference to the defendants' arguments regarding extreme and outrageous conduct, the plaintiffs' opposition frames the issue in the context of reckless and/or intentional infliction of emotional distress. In the complaint, however, Magaret, John, and Paul do not assert claims for intentional infliction of emotional distress. Instead, at Counts, X, XI, and XII, they assert claims against Read for negligent and/or reckless infliction of emotional distress. Thus, in ruling upon this motion, the court does not impute an additional cause of action for Margaret, John, and Paul that is not included in the complaint. As discussed below, Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress.

[8] "Under our common law, judicial records are presumptively available to the public." *Commonwealth* v. *George W. Prescott Pub. Co., LLC*, 463 Mass. 258, 262 (2012). "[W]hen filed in court, search warrant materials are judicial records to which the public's presumptive right of access applies once the warrant has been returned." *Id.* at 263. Thus, once the warrant is returned, it becomes a public document and may be considered by a court when ruling upon a motion to dismiss. See *Schaer*, 432 Mass. at 477.

mobile device capable of communicating and cellphones used by Karen Read."[9] He filed a return of the search warrant on January 24, 2024.

Tully submitted an affidavit in support of the search warrant application. The affidavit comprises thirty-one pages and discusses Read's communications regarding JJ's death. Briefly stated, the affidavit largely describes actions by a local blogger, Aidan Kearney, who runs a series of social media websites under the name "Turtleboy."

The affidavit states that Kearney posted articles on social media accounts that reflected personal attacks on civilian witnesses, members of their families, and their friends. The affidavit also states that throughout various postings and videos, Kearney identified several individuals who socialized with JJ and Read, stated that they, not Read, were responsible for JJ's murder, and encouraged his social media followers to contact and harass these individuals. Additionally, the affidavit references certain comments Kearney directed to the O'Keefe family:

> "How much slack are we supposed to give you [John O'Keefe's family] . . . the time period for the grief, whatever, that we are giving you, like we are not going after you because of the grief, that is expired. It's expired because you're trying to send an innocent woman to jail for the rest of her life . . . I don't feel bad for you anymore.

Plaintiffs' Opposition, Exhibit A, paragraph 39.

Per the affidavit, Read communicated with Kearney through an intermediary, Natalie Wiweke Berhsneider. Through this intermediary, Read gave Kearney information concerning her case, some of which was potentially not available to the public, which Kearney then used in his social media postings. Read also shared personal information and pictures of many civilian individuals for whom Kearney argued were responsible for JJ's death.

[9] The court acknowledges that the substance of the search warrant affidavit is highly disputed. The court's references to such affidavit are viewed through the lens of a Rule 12(b)(6) motion, which requires the court to view facts and draw inferences in the plaintiffs' favor.

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When applying the plausibility standard required by Rule 12(b)(6), such actions are consistent with the plaintiffs' averments that Read developed a narrative surrounding JJ's death.[10] Kearney unquestionably took extensive efforts in publicizing information regarding the charges against Read, and the affidavit describes Read acting in concert with some of those efforts. Notably, Kearney stated that the time had "expired" for "going after" the O'Keefe family and that the O'Keefe family was involved in a coverup regarding JJ's death. Taken as a whole, in applying the plausibility standard, the complaint and this warrant affidavit set forth sufficient facts that the extensive media attention perpetuated after JJ's death caused the plaintiffs to suffer emotional distress.

Primarily, the defendants' motions set forth generalized legal statements for extreme and outrageous conduct. As to a substantive argument, Read cites to *Polay* v. *McMahon*, 468 Mass. 379 (2014). *Polay* is arguably similarly because it dealt with "(1) filing false police reports and harassment prevention petitions against the plaintiffs; (2) verbally attacking the plaintiffs; and (3) monitoring and recording the plaintiffs' home on a continuous basis." *Id.* at 386. The SJC in *Polay* held that such action did not rise to the level of extreme and outrageous conduct. The court acknowledges that *Polay* shares parallels as to a dispute between individuals which escalated into allegedly harassing behaviors. However, given the extensive scope of media scrutiny and Read's relationship with Kearney, as alleged in the complaint and search warrant affidavit, the facts of this case rise above those at issue in *Polay* because of their public and pervasive nature.

[10] In making this assessment, the court is not ruling on whether Read's "narrative" was true or false. As with its consideration of the search warrant affidavit, the court is exercising its legal authority regarding the instant motions, which is limited to applying a plausibility standard with facts and inferences viewed in the plaintiffs' favor.

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Therefore, the defendants' motions are **DENIED** as to their arguments regarding extreme and outrageous conduct.

E. Claims Asserted by Kayley Furbush

The defendants argue that the complaint does not assert sufficient facts that Kayley suffered emotional distress, and that it does not describe which conduct applies to which claim. As discussed above, Kayley's claim for negligent infliction of emotional distress must be dismissed for failure to state a viable claim. However, consistent with Margaret's, John's, and Paul's claims, Kayley was also plausibly distressed by the public and pervasive nature of Read's alleged false narrative. The alleged facts surrounding Kayley's interactions with Read in the early morning hours on January 29, 2022, can also be plausibly characterized as extreme and outrageous. Such determination supports Kayley's claim for reckless infliction of emotional distress.

Kayley is the only plaintiff who asserted a claim for intentional infliction of emotional distress. A claim for intentional infliction of emotion distress requires sufficient averments that Read "intended to inflict emotional distress or that [she] knew or should have known that emotional distress was the likely result of [her] conduct." *Agis* v. *Howard Johnson Co.*, 371 Mass. 140, 144–145 (1976). With reference to the specific allegations of the complaint, Read's motion states that "Defendant's questioning what happened during a phone call with third parties, even if in Kayley Furbush's presence, is also not actionable conduct." This does not convey the full scope of what occurred during the early morning hours of January 29, 2022, in the manner alleged in the complaint. Instead, the complaint plausibly pleads that Read made multiple distressing calls about JJ's physical condition, namely being struck by Read's vehicle or

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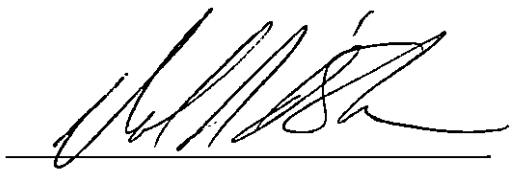
by a snowplow. Moreover, Read made these statements upon waking Kayley up at 4:30 a.m., which plausibly contributed to the distressing nature of that interaction.

Even if this court were to accept Read's position that she was merely engaging in telephone conversations, "[c]onduct otherwise reasonable may become tortious when directed at an individual known to be particularly susceptible to infliction of emotional distress." *Boyle* v. *Wenk*, 378 Mass. 592, 596 (1979). At time of this interaction, it can be inferred that Read knew Kayley was a vulnerable minor who previously lost both parents and lived with JJ as her surrogate parent. Given such status, Kayley would be particularly vulnerable to distress caused by an additional loss of a parental figure. Thus, based upon Kayley's vulnerability and susceptibility, Read, at a minimum, knew or should have known that her conduct would cause Kayley to suffer emotional distress. This plausibly supports a claim for intentional infliction of emotional distress.

Therefore, the defendants' motions to dismiss are **DENIED** as to their arguments regarding the sufficiency of Kayley's claims.

ORDER

Wherefore, the defendants' motions are **ALLOWED** as to the negligent infliction of emotional distress claim asserted by Kayley and **DENIED** as to their claims for reckless and/or intentional infliction of emotional distress. The defendants' motions are **DENIED** in all other respects.



October 3, 2025

Daniel J. O'Shea
Justice of the Superior Court

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EXHIBIT D

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COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. **SUPERIOR COURT**
2282CR00117

Commonwealth v. Karen Read

Order on Intervenor Aidan Kearney's Motion for Protective Order

Before the Court is Intervenor Aidan Kearney's Motion for Protective Order Regarding Sharing of Cell Phone Data. After a hearing on March 28th, 2025, and a review of the submissions related thereto, the Motion is ALLOWED in part.

The Intervenor has raised significant concerns regarding confidentiality related to the Commonwealth's prosecution of Mr. Kearney in 2382-cr-00313 - specifically, his concerns over law enforcement's use and/or dissemination of data obtained by search warrant and extracted from Mr. Kearney's cell phones. The Court deems Intervenor's concerns sufficient to warrant further Court action, however, only as it pertains to data that is being produced per the Court's March 20, 2025 order in this case [Dkt. 615] , and only as it relates to the above-captioned case (2282-cr-00117). The Court acknowledges that other investigative materials or discovery beyond that covered by this Order are already the subject of the Court's prior Order [Dkt. 555] concerning counsel's obligations. And, Intervenor Kearney has also moved for an identical Protective Order in the pending case in which he is a Defendant (2382-cr-00313); that Motion is not currently before this Court.

With regard to the data extracted from Mr. Kearney's phones and produced per the Court's March 20, 2025 Order (the "DATA"), the Court ORDERS:

1. All agents of the Commonwealth, including but not limited to any members of any law enforcement agency or agent or contractor thereof, shall maintain the confidentiality of the DATA and shall not share, publish, disseminate or otherwise disclose the DATA or any information concerning the DATA to anyone other than counsel of record for the Commonwealth in this matter or counsel of record for the Defendant.

2. This protective order shall take effect when entered and shall remain in effect unless terminated by entry of a Court Order.
3. Any person who violates this Order shall be in contempt of Court.

SO ORDERED this 31st day of March 2025.

Adam L. Sisitsky
Associate Justice of the Superior Court

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EXHIBIT E

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Michael W. Morrissey
District Attorney

The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

45 Shawmut Road
Canton, MA 02021
781-830-4800
Fax: 781-830-4801

March 6, 2026

VIA EMAIL

Marc A. Diller, Esq.
Diller Law, LLP
50 Congress Street, Suite 420
Boston, MA 02109

Re: Paul O'Keefe et al. v. C&C Hospitality, LLC et al., Plymouth Superior Court, Civil Action No. 2483-CV-00692

Dear Mr. Diller:

I write on behalf of the Norfolk District Attorney's Office ("NDAO") in response to the subpoena that you issued in the above-referenced action on February 25, 2026, requesting records and access to Karen Read's cell phones; records of communications, including emails by or to Karen Read and/or Aidan Kearney; and records pertaining to the prosecution of Aidan Kearney. Pursuant to Mass. R. Civ. P. 45(d)(1), this letter serves as the NDAO's written objection to the subpoena.

The NDAO objects to your requests on the grounds that they are overbroad, unduly burdensome, costly, and seek information that is publicly available. See Mass. R. Civ. P. 26 (c) (for good cause shown the court should protect record holders from undue burden or expense, particularly when the material is available from some other source, duplicative, unduly cumulative, and in considering the importance of the requested material in resolving the issues); Mass. R. Civ. P. 26 (f) (2) – (4) (additional considerations to the burdens of producing electronically stored data). The NDAO, a non-party record holder, emphasizes the undue burden particularly where the majority of the requests are obtainable from another source, namely defendant Karen Read. See generally Commonwealth v. Karen Read [2282CR00117] (NDAO Notices of Discovery 34, 35, 47).

The NDAO objects to producing any information that would jeopardize pending criminal investigations; whose disclosure is proscribed by law, including grand jury materials, and documents that are sealed, impounded, subject to protective orders, or would contravene court orders, including previously raised confidentiality concerns and pending criminal cases. See Commonwealth v. Karen Read [2282CR00117] (docket entries 636, 650); Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088] (docket -00313 entries 22, 47, 61, 62, 76).[1]

[1] This case is prosecuted by Special Assistant District Attorney Robert C. Cosgrove who asserts substantially similar objections to this subpoena.

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Moreover, your request no. 5 and no. 12 appear to contravene the Plymouth Superior Court's March 1, 2026 order to the "Plaintiff's Emergency Moton for Temporary Restraining Order Pursuant to Rule 65 to Prevent Release of Evidence" (Gildea, J.) as well as the Plaintiff's pending request to intervene in Commonwealth v. Aidan Kearney [2382CR00313; 2582CR00088], where the issue of access to cellphones seized from Karen Read is pending a decision of the Court (Krupp, J.).

The NDAO objects to the subpoena to the extent that it calls for the production of materials that are protected by the work-product doctrine, the attorney-client privilege, or other applicable protections, privileges, or immunities against disclosure, including but not limited to internal communications and notes containing attorney work product and/or mental impressions. The NDAO further objects to searching sources of electronically stored information that are not reasonably accessible without the investment of significant time or expense. Mass. R. Civ. P. 26 (f) (2) – (4).

Subject to the existing protective order of confidentiality and without waiving the foregoing objections, for your convenience the NDAO has attached the public court orders in Commonwealth v. Karen Read [2282CR00117] governing its decision. The NDAO is also producing a responsive motion transcript from December 17, 2024, in Kearney and a video clip of Karen Read, which was part of the video previously produced on January 9, 2026. Lastly, the NDAO has complied with request no. 10 as that material was denoted confidential and produced to the plaintiff and defendant Karen Read on January 9, 2026. The NDAO reserves all rights, including the right to recover its reasonable expenses in responding to the subpoena.

Sincerely,

/s/ Laura A. McLaughlin

Assistant District Attorney

cc: Damon M. Seligson, Esq.
Charles M. Waters, Esq.
Aaron D. Rosenberg, Esq.
Daniel T. Buck, Esq.