



**Law Office of  
LINDY KORN, PLLC.**

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**CONFIDENTIAL: FOR SETTLEMENT PURPOSES ONLY**  
**PURSUANT TO CPLR 4547 AND FRE 408**  
**NOT TO BE USED OR INTRODUCED FOR ANY OTHER PURPOSE**

June 8, 2020

**VIA U.S. CERTIFIED MAIL and E-MAIL** (*ndangelolaw@gmail.com*)

Nicholas D'Angelo, Esq.  
365 Market St.  
Lockport, NY 14094

Nicholas D'Angelo, Esq.  
717 Pine Avenue  
Niagara Falls, NY 14301

**Re: Noelle DelZoppo v. Nicholas D'Angelo**

Mr. D'Angelo:

The Law Office of Lindy Korn, PLLC has been retained by Noelle DelZoppo to represent her in connection with her legal claims arising out of her representation by Nicholas D'Angelo, Esq. Ms. DelZoppo's claims include rape, sexual assault, battery, assault, intentional infliction of emotional distress, negligence, and breach of contract in violation of both state and federal law.

Prior to discussing this claim, please note the attached Request for Preservation of Electronic and Paper Evidence that includes a list of all electronic and paper documents/evidence that our client is requesting you preserve if we are unable to resolve this matter. **Exhibit 1.** Consider this letter a notice of the requirement for your company to issue a legal hold and to preserve all data in every form that would bear on the issue of my client's representation by Mr. D'Angelo and any communications between the two.

Ms. DelZoppo has detailed the discriminatory and illegal circumstances surrounding her legal representation by Mr. D'Angelo. It is alarming and extremely disturbing that Mr. D'Angelo has committed these illegal acts against and allowed this treatment toward my client. Our client has compelling legal claims against Mr. D'Angelo because of his actions. However, prior to filing a formal complaint, my client is interested in exploring a private and amicable resolution of this

dispute, to the extent one is possible. We have outlined the factual background and legal bases for my client's claims in the attached, unfiled complaint. **Exhibit 2.**

### **JURY APPEAL**

In discussing my client's claims, it has become apparent that she will have significant jury appeal if this matter proceeds to trial. Ms. DelZoppo will make a sympathetic, credible, and admirable witness to a jury. My client is eloquent, intelligent, likeable, and presents consistent statements.

A jury will not look favorably on Mr. D'Angelo's unlawful conduct and abuse of his power as her attorney. There is no way to quantify the damage that has been done to my client as a result. Unquestionably, my client has suffered severe emotional distress, including humiliation, injury to her reputation, embarrassment, anxiety, depression, self-harm, sleepless nights, and other tangible emotional distress as a result. Mr. D'Angelo gave Ms. DelZoppo a sexually transmitted disease – herpes – when he raped her.

Accordingly, we believe that a jury will easily award her significant damages.

### **RISKS AND EXPOSURE**

Mr. D'Angelo faces significant risks and exposure if this matter is litigated. Ms. DelZoppo will be able to establish a *prima facie* case, defeat a summary judgment motion, and present her case to a jury if this matter is not resolved.

Mr. D'Angelo will incur significant legal fees to fight this case. When our client's case prevails on a summary judgment motion, which we are confident will occur, the attorney fees to defend a case through trial can exceed six figures, on top of the damages that a jury would award our client and attorney's fees that will be recoverable by our client. This would result in substantial financial liability for Mr. D'Angelo.

Further, if my client succeeds at trial, it is my practice to write an article about the illegal conduct of the Defendant. This article will be published in various legal and other publications.

Clearly, if this matter is litigated, Mr. D'Angelo faces financial liability as well as significant negative publicity when the media develops an interest in this case.

### **SETTLEMENT DEMAND**

Ms. DelZoppo is willing to release her claims against Mr. D'Angelo for the following demands:

1. Mutual non-disparagement provisions;
2. Reimbursement for legal fees paid to Mr. D'Angelo in the amount of \$500;
3. Damages for emotional distress and mental anguish in the amount of \$425,000;
4. Defendant to agree to psychological treatment/counseling and proof of the same; and

5. Attorney's fees and costs.

Our office would like to invite Mr. D'Angelo to mediate this matter. We believe mediating these types of issues initially can have great merit, as litigation is expensive and time-consuming for all parties involved. For more information about mediation, please refer to the Western District of New York's website. <http://www.nywd.uscourts.gov/alternative-dispute-resolution>

If Mr. D'Angelo is interested in exploring a mutually-agreeable resolution with Ms. DelZoppo, please respond to me no later than June 22, 2020. If I do not hear from you by this time, I will advise my client accordingly on moving forward with her claims.

Please contact me at (716) 856-5676 or [lkorn@lkorn-law.com](mailto:lkorn@lkorn-law.com) to discuss this matter. I look forward to hearing from you.

Very truly yours,

LAW OFFICE OF LINDY KORN, PLLC



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Lindy Korn, Esq.  
*Attorneys for Noelle DelZoppo*  
LK/mg

Enclosures

cc: Noelle DelZoppo

# **Exhibit 1**

## **Request for Preservation of Electronic and Paper Evidence for Nicholas D'Angelo**

We are writing to advise you, Mr. D'Angelo ("the Defendant"), of your legal obligation to preserve all relevant evidence. That evidence includes, but is not limited to, all email and text messages, and any other electronic communications, sent or received by the following persons: Mr. D'Angelo, his employees, office staff, Human Resources, (collectively, the "Custodians"), and any other employees that involve Noelle DelZoppo's complaint allegations against Mr. D'Angelo. Such electronic communications must be preserved from the date Ms. DelZoppo was a client of Mr. D'Angelo to the present.

Consider this letter a notice of the requirement for your company to issue a litigation hold and to preserve all data in every form, including text messages, phone records, emails, and other electronic and written communication, not only in its own records, but in the records of its vendors, partners, customers, employees, or other service providers, along with its agents and assigns, that would bear on any of the issues my client has alleged pertaining to her representation by Defendant.

It is not legally sufficient to order your staff to go through the emails of the above Custodians and ask them to preserve those they deem relevant. The Defendant is required to immediately preserve and cease the routine destruction/deletion/overwriting of all email sent to or from and/or received by all of the Custodians. The Defendant must also cease the routine destruction or overwriting of any backup tapes which could contain their emails. Any emails which are live on the Defendant's email server must remain in reasonably accessible format.

The Defendant is also required to preserve all evidence, including any electronic and non-electronic evidence, concerning Ms. DelZoppo's representation by Defendant. This includes any and all information on employees, employer-issued cell phones, and other electronic devices.

Modern computer forensics has made it virtually impossible to conceal alterations and destruction of evidence. If it is forensically determined that the Defendant failed to preserve relevant electronically stored information, it will be responsible for the significant expense of forensically restoring such evidence. Electronically stored information cannot be permanently destroyed, but steps can be taken to make it more expensive to retrieve, and courts have not hesitated to impose the costs of such retrieval.

If you maintain insurance, including general liability, Directors and Officers, Employment Practices Liability, or other insurance which might cover these claims, its failure promptly to notify its carrier could result in a loss of coverage.

# **Exhibit 2**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NIAGARA

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NOELLE DELZOPPO,

*Plaintiff,*

Index No. \_\_\_\_\_

v.

**COMPLAINT**

NICHOLAS D'ANGELO,

*Defendant.*

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Plaintiff, Noelle DelZoppo, by and through her attorneys, Lindy Korn, Esq. and the Law Office of Lindy Korn, PLLC, hereby complains of the Defendant, upon information and belief, as follows.

**NATURE OF THE CLAIMS**

Plaintiff seeks the appropriate remedies and damages for discriminatory and illegal behavior during Defendant's legal representation of her based upon sexual assault, battery, assault, intentional infliction of emotional distress, negligence, breach of contract, and public accommodation discrimination in violation of the NY New York Civil Practice Law and Rules, NYS Common Law, and New York Executive Law §296.

**JURISDICTION & VENUE**

1. This Court has jurisdiction over this action pursuant to New York Civil Practice Law and Rules.
2. Venue is proper in this Court based upon Plaintiff's residency within the County of Niagara, Defendant is located in the County of Niagara, and a substantial part of the acts or omissions giving rise to the Plaintiff's claims occurred in the County of Niagara.

## **PARTIES**

3. At all times referenced in the complaint, Plaintiff Noelle DelZoppo (“Plaintiff” or “Ms. DelZoppo”), is a resident of the State of New York, County of Niagara.
4. At all times referenced in the complaint, Defendant Nicholas D’Angelo (“Defendant” or “Mr. D’Angelo”) is an attorney with offices located at 717 Pine Avenue, Niagara Falls, NY 14301 and 365 Market Street, Lockport, NY 14094.
5. At all times referenced in the complaint, Defendant D’Angelo was Plaintiff’s attorney.

## **MATERIAL FACTS**

6. Plaintiff hired Defendant D’Angelo to represent her in a landlord tenant dispute on August 14, 2019.
7. The first time Defendant was inappropriate with Plaintiff was on August 25, 2019. Defendant told Plaintiff to send him “pretty female clients” and that he was happy Plaintiff’s friend was already a client of his. Defendant texted Plaintiff: “By the way, you didn’t tell me how beautiful Marissa was. Next time give me a heads up on good looking referrals. Lol.”
8. After Plaintiff’s first client meeting with Defendant and her fiancé, Defendant told Plaintiff that he could not stop staring at her while she was in his office.
9. Plaintiff’s first court appearances were in Niagara Falls. After this case was adjourned, Defendant hinted to Plaintiff that she should come to his office or court appearances by herself, without her fiancé. Plaintiff chose to attend with her fiancé.
10. Defendant called Plaintiff before a court appearance in Wheatfield for a second matter and asked if Plaintiff was alone or was with her fiancé. She replied that she was alone. Defendant told Plaintiff that if she wanted “things done properly,” as in her representation in court by Defendant, Plaintiff would need to go to Defendant’s office alone.

11. It got to the point where Defendant would text message Plaintiff non-stop and send her inappropriate messages. He would text Plaintiff: that he had a “hard time not looking at your [sic] when you were at my office.” Defendant then texted: “And I think you need to come by, by yourself, to talk about the case...” After Plaintiff did not respond, Defendant followed up with: “Haha answer my question! When can you come by?”
12. Defendant would text Plaintiff: “When are you going to meet me alone?” and “When are you going to fuck me?”
13. Defendant texted Plaintiff: “You know what we need to make happen in terms of what I said last time.”
14. Defendant would also repeatedly call her on the phone and attempt to get her to come to his office “after hours.”
15. Defendant repeatedly tried to get Plaintiff to engage in sexual acts with him.
16. Defendant eventually sexually assaulted Plaintiff on numerous occasions.
17. Defendant would get extremely angry with Plaintiff if she ignored him or did not go to his office alone and give him what he wanted: nude photos and sex.
18. Plaintiff felt as though she had a mental breakdown during this time period, between the severe worrying about what would happen with her case if she did not give in to Defendant’s repeated sexual advances and threats.
19. In September 2019 Plaintiff went to Defendant’s office for a scheduled meeting. When she arrived, Defendant grabbed her face and began to kiss her, sticking his tongue in her mouth. Plaintiff was disgusted.
20. Plaintiff asked Defendant: “Are we talking more about my case?” Defendant replied: “another time.”

21. Plaintiff was raped by Defendant D'Angelo around the end of October/early November 2019.
22. Defendant had called Plaintiff around October – early November 2019 to come to his office on Pine Ave. in Niagara Falls. Plaintiff thought it was related to her case. Defendant raped her when she arrived.
23. Plaintiff felt disgusted, violated, and ashamed after the rape.
24. Defendant hounded Plaintiff until she gave in out of mental exhaustion and being terrified of the adverse legal consequences Defendant threatened her with.
25. After the rape, Defendant demanded that Plaintiff delete texts and other messages from her phone of Defendant begging her to engage in sexual acts and to send nude photographs and threatened her to do so.
26. From this point on, Plaintiff tried to avoid taking Defendant's calls or responding to his messages. The more Plaintiff ignored Defendant, the angrier and more hostile he would become.
27. Defendant would even make up lies to get Plaintiff to answer the phone, such as telling her she needed to call immediately about something important about the case. Plaintiff would say she would have her fiancé call Defendant and he would say no.
28. Defendant would get angry with Plaintiff if she had her fiancé answer the phone on her behalf.
29. From October 2019 until Plaintiff fired Defendant in March 2020, Defendant would tell Plaintiff's fiancé to wait outside during client meetings or court dates pertaining to Plaintiff's legal representation. Defendant did this on at least two to three different occasions.
30. When Plaintiff's fiancé would leave the room, Defendant would grill her as to why she would not "sneak around" to see him. Defendant would tell Plaintiff he would come over if she wanted to "screw her for a bit" and show her what she's "missing out on" and would insist he's "worth it."

31. Defendant's behavior made Plaintiff extremely uncomfortable and upset, particularly considering how much power Defendant possessed over Plaintiff and Defendant's threats to tell her fiancé about the rape.
32. Plaintiff's anxiety got to the point that she would shake and be on the verge of tears seeing Defendant call her and knowing she had to appear in court with him.
33. Every court date up until the last date in March 2020 Defendant would continue to pull Plaintiff aside and sternly tell her that she will make sure she made time for an office visit with him again, ASAP.
34. At the last court appearance for the Wheatfield case, around February 2020, Defendant grabbed Plaintiff's buttocks and told her to "make another office appointment happen." Defendant intentionally did not show up to the next court date in the Niagara Falls case, around March 9, 2020, because she did not answer him or see him after being groped.
35. When Plaintiff called him afterward and asked him why he did not attend court with her that date, Defendant replied to her: "when you decide to come to my office and make time to satisfy me, then we can talk about things going good in court."
36. Plaintiff fired Defendant after this point.
37. Plaintiff endured this behavior from Defendant during the entire seven months he was her lawyer.
38. It is extremely disturbing and appalling that a member of the Bar would take advantage of a client in this manner.
39. Defendant D'Angelo coerced Plaintiff into sexual acts by threatening adverse consequences in her legal case he represented her in if she refused his sexual advances. Defendant stated he would not show up to court dates or would intentionally harm her case if she did not allow him to sexually assault and/or rape her.

40. Defendant gave Plaintiff a sexually transmitted disease – herpes – when he raped her.
41. Upon information and belief, Defendant D’Angelo has engaged in inappropriate sexual conversations and behavior with numerous other clients.

**FIRST CAUSE OF ACTION**

**Discrimination in Places of Public Accommodation in Violation of New York State Human Rights Law (Executive Law, Article 15), § 296(1).**

42. Plaintiff repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
43. It is illegal to discriminate against an individual in places of public accommodation based upon, *inter alia*, their sex.
44. Defendant discriminated against Plaintiff in places of public accommodation: his law office.
45. Defendant discriminated against Plaintiff based upon Plaintiff’s sex. Defendant indicated that he would only provide the legal services he was retained to provide if Plaintiff sent him nude photographs and acquiesced to his sexual advances.
46. After Plaintiff’s refusal, Defendant did not appear for a scheduled court date. He sent a colleague who was unprepared and was unfamiliar with this case in his place.
47. Afterward, Defendant told Plaintiff: “when you feel like coming for another office visit, then maybe we can talk about the case.” The “office visit” referred to was the occasion where Defendant raped Plaintiff in his office.
48. Based on the foregoing allegations, Plaintiff states a cause of action for discrimination in places of public accommodation against Defendant.

**SECOND CAUSE OF ACTION**  
**Tort of Sexual Assault in Violation of NY CPLR § 213-c.**

49. Plaintiff repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
50. Plaintiff DelZoppo was raped by Defendant D'Angelo during a meeting regarding her case in Defendant's office around October/early November 2019.
51. Plaintiff did not consent to engaging in sexual intercourse with Defendant.
52. Defendant coerced her into doing so by threatening negative ramifications for her legal case if she did not comply.
53. Plaintiff DelZoppo was irreparably harmed by Defendant D'Angelo's rape and sexual assault of her and has suffered, and continues to suffer, monetary and emotional harm for which she is entitled to an award of damages.
54. Based on the foregoing allegations, Plaintiff has stated a cause of action for sexual assault against Defendant.

**THIRD CAUSE OF ACTION**  
**Tort of Assault**

55. Plaintiff repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
56. In New York a plaintiff can establish a claim of assault by demonstrating: (1) an unjustifiable threat of force against plaintiff; (2) made with the intention to arouse apprehension; (3) that did indeed cause a reasonable apprehension of immediate physical harm in the plaintiff; and (4) the apparent present ability by defendant to effectuate the threat.
57. Plaintiff meets the first element as she was sexually assaulted by Defendant on multiple occasions.

58. Plaintiff meets the second element as Defendant's actions made Plaintiff apprehensive and fearful of harmful or offensive conduct.
59. Plaintiff meets the third element as Defendant's actions created a reasonable apprehension of immediate physical harm in the Plaintiff.
60. Plaintiff meets the fourth and final element as Defendant groped, sexually assaulted, and raped Plaintiff while she was in his office for client meetings; he demonstrated that he would be able to do to Plaintiff what he wanted, when he wanted.
61. Based on the foregoing allegations, Plaintiff states a cause of action for assault against Defendant.

**FOURTH CAUSE OF ACTION**  
**Tort of Battery**

62. Plaintiff repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
63. In New York a plaintiff makes out a cause of action for battery if she shows the following elements: (1) intent to make bodily contact; (2) that is harmful or offensive in nature.
64. Here, Plaintiff can show that Defendant had the requisite intent to make bodily contact when he groped her and sexually assaulted her on countless occasions while she was in his office for meetings pertaining to her legal case.
65. Plaintiff can show the second and final element of this cause of action as Defendant's conduct was both harmful and offensive in nature.
66. Based on the foregoing allegations, Plaintiff states a cause of action for the tort of battery against Defendant.

**FIFTH CAUSE OF ACTION**  
**Tort of Negligence**

67. Plaintiff repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

68. In New York, to establish a cause of action for negligence, a plaintiff must show: (1) the defendant owed a cognizable duty to the plaintiff, as one who was a foreseeable plaintiff; (2) the defendant breached his duty to the plaintiff; (3) the defendant's breach was the actual and proximate cause of the plaintiff's damage; and that (4) the plaintiff suffered legally cognizable injury or damages.

69. Here, as for the first element, Defendant owed Plaintiff a duty of providing a safe environment free of harassment, assault, and sexual violence while representing her as a client. Ms. DelZoppo was a foreseeable plaintiff.

70. As for the second element, Defendant breached his duty to Plaintiff by harassing her, subjecting her to vulgar text messages, sexually assaulting her, and raping her.

71. As for the third and fourth elements, Defendant's breach was the actual and proximate cause of Plaintiff's damages; Plaintiff suffered emotional distress damages as a result of Defendant's conduct.

72. Based on the foregoing allegations, Plaintiff states a cause of action for negligence against Defendant.

**SIXTH CAUSE OF ACTION**  
**Breach of Contract**

73. Plaintiff repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.

74. Based on the aforementioned facts and circumstances, Defendant breached his express and/or implied agreement(s) with Plaintiff to provide her competent, diligent legal services. Defendant

did so by predicating his legal representation of Plaintiff on her performing sexual acts for him and failing to perform his duties as her attorney after she refused.

75. Defendant breached the ethical duties he owed to Plaintiff; specifically, NY Professional Rule of Conduct 1.8(j)(1).
76. As a direct and foreseeable consequence of these breaches, Plaintiff sustained damages including, without limitation, emotional distress, and legal ramifications of Defendant D'Angelo's inadequate representation. As a result of the foregoing, Plaintiff is entitled to damages in an amount to be determined at trial plus attorney's fees, expenses, costs, and disbursements.
77. Based on the foregoing allegations, Plaintiff states a cause of action for breach of contract against Defendant.

**SEVENTH CAUSE OF ACTION**  
**Tort of Intentional Infliction of Emotional Distress**

78. Plaintiff repeats each and every allegation set forth in the preceding paragraphs as though fully set forth herein.
79. In New York, to establish a claim of intentional infliction of emotional distress, a plaintiff must show: (1) the defendant intentionally or recklessly engaged in extreme or outrageous conduct that (2) causes the plaintiff severe emotional distress.
80. Here, as for the first element, Defendant intentionally or recklessly engaged in extreme or outrageous conduct by groping and sexually assaulting Plaintiff repeatedly during client meetings and by physically, verbally, and emotionally abusing Plaintiff.
81. As for the second element, the sexual assault and sexual harassment Plaintiff experienced by Defendant brought her severe emotional distress and trauma.

82. Based on the foregoing allegations, Plaintiff states a cause of action for intentional infliction of emotional distress against Defendant.

**INJURY AND DAMAGES**

83. As a result of the acts and conduct complained of herein, Plaintiff suffered tremendous emotional pain, suffering, inconvenience, injury to her reputation, loss of enjoyment of life, and other non-pecuniary losses. Plaintiff has experienced severe emotional and physical distress, as described above.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests a judgment against the Defendant:

- a. Awarding Plaintiff damages for mental, emotional and physical injury, distress, pain and suffering, loss of enjoyment of life, humiliation, injury to her reputation, and other injuries and in an amount to be determined at trial;
- b. Awarding Plaintiff economic damages of her retainer and medical expenses;
- c. Defendants to pay Plaintiff the costs of this action, together with reasonable attorney's fees and disbursements;
- d. Directing Defendant to pay all unreimbursed medical costs incurred by Plaintiff as a result of the stress and anxiety they suffered resulting from the discrimination, including diagnostic analysis, treatment and therapy, and follow-up therapy;
- e. Injunctive relief as this Court deems just and equitable;
- f. Defendant to be assessed punitive damages; and
- g. Plaintiff to have such other and further relief as this Court deems just and equitable.

WHEREFORE, Plaintiff demands judgment against Defendant in an amount to be determined at trial plus interest, punitive damages, attorney's fees, costs, and disbursement of action, and for other such relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury for all issues triable of right by a jury in this case.

Dated: Buffalo, New York  
June \_\_, 2020

By: \_\_\_\_\_  
Lindy Korn, Esq.  
*Attorneys for Plaintiff*  
Law Office of Lindy Korn, PLLC  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NIAGARA

\_\_\_\_\_  
NOELLE DELZOPPO,

*Plaintiff,*

Index No. \_\_\_\_\_

v.

**VERIFICATION**

NICHOLAS D'ANGELO,

*Defendant.*

\_\_\_\_\_  
Noelle DelZoppo, under penalty of perjury, deposes and says:

I have read the attached *Complaint* captioned in this matter and find it to be true to my knowledge, except as to matters alleged upon information and belief, which I believe to be true.

\_\_\_\_\_  
NOELLE DELZOPPO

Sworn before me on this \_\_\_\_ day of \_\_\_\_\_ 2020

\_\_\_\_\_  
Notary Public