

1 BRIGGS LAW CORPORATION [FILE: 2059.00]  
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN DIEGO – CENTRAL DIVISION

10  
11 \_\_\_\_\_ ) CASE NO. 37-2021-00006367-CU-DF-CTL  
12 JOSHUA BILLAUER, )  
13 Plaintiff, ) **COMPLAINT FOR DAMAGES**  
14 vs. ) [Unlimited Jurisdiction]  
15 OLGA MARCELA ESCOBAR-ECK; and DOES 1 )  
16 through 1,000, )  
\_\_\_\_\_ )  
Defendants.

17 Plaintiff JOSHUA BILLAUER ("PLAINTIFF") alleges as follows:

18 **Parties**

- 19 1. PLAINTIFF is a natural person who resides in the City of San Diego.  
20 2. Defendant OLGA MARCELA ESCOBAR-ECK ("ECK"), also known as "Marcela  
21 Escobar-Eck," is a natural person who resides in the City of Carlsbad. All wrongdoing alleged herein  
22 by ECK and the other Defendants was done knowingly and intentionally.  
23 3. The true names and capacities of the Defendants identified as DOES 1 through 1,000  
24 are unknown to PLAINTIFF, who will seek the Court's permission to amend this pleading in order to  
25 allege the true names and capacities as soon as they are ascertained. PLAINTIFF is informed and  
26 believes and on that basis alleges that each of the fictitiously named Defendants encouraged,  
27 participated in, distributed, or was otherwise involved in the wrongdoing that is the subject of this  
28 lawsuit.

1 4. PLAINTIFF is informed and believes and on that basis alleges that, at all times stated  
2 in this pleading, each Defendant was the agent, servant, or employee of every other Defendant and was,  
3 in doing the things alleged in this pleading, acting within the scope of said agency, servitude, or  
4 employment and with the full knowledge or subsequent ratification of his/her/its principals, masters,  
5 and employers. Alternatively, in doing the things alleged in this pleading, each Defendant was acting  
6 alone and solely to further his/her/its own interests.

7 **Venue**

8 5. Venue in this Court is proper because the obligations, liabilities, and violations of law  
9 alleged in this pleading occurred in the County of San Diego in the State of California.

10 **Background**

11 6. On the online social-media platform Twitter, PLAINTIFF controls and operates an  
12 account known as “@SaveDelCerro.” At all times relevant to this lawsuit, Defendants have known that  
13 PLAINTIFF operates that account and have associated him with that account.

14 7. PLAINTIFF is a professional financial advisor and is employed by Wells Fargo.  
15 Attached hereto as Exhibit “A” is a true and correct copy of PLAINTIFF’s professional profile  
16 published on his employer’s website.

17 8. On or about December 10, 2020, ECK electronically published a “tweet” on Twitter that  
18 was directed at PLAINTIFF’s employer – “@WellsFargo” – and asserted that PLAINTIFF is “[a] racist  
19 person who is engaging in cyberbullying” (the “Criminal Tweet”). At the time of the Criminal Tweet,  
20 ECK had hundreds of “followers” on Twitter who could read her tweet about PLAINTIFF. ECK  
21 subsequently re-published the Criminal Tweet by “re-tweeting” it. Attached hereto as Exhibit “B” is  
22 a true and correct copy of the Criminal Tweet; as Exhibit “C,” a true and correct copy of ECK’s Twitter  
23 profile; and as Exhibit “D,” a true and correct copy of Wells Fargo’s Twitter profile.

24 **FIRST CAUSE OF ACTION:**  
25 **Recovery of Damages**  
(Against All Defendants/Respondents)

26 9. The preceding allegations in this pleading are fully incorporated into this paragraph.

27 10. PLAINTIFF is entitled to recover damages from Defendants based on multiple theories  
28 of recovery. By way of example and not limitation:

1           A.     Plaintiff is informed and believes and on that basis alleges in support of a theory  
2 of libel *per se*:

3                   i.     Cyberbullying is a crime throughout the United States of America and  
4 its various territories.

5                   ii.    Defendants’ assertion in the Criminal Tweet that PLAINTIFF “is  
6 engaging in cyberbullying” was false at the time it was published on Twitter, has always been false, and  
7 remains false. The Criminal Tweet was therefore libelous on its face.<sup>1</sup>

8                   iii.   PLAINTIFF’s employer and others who read the Criminal Tweet knew  
9 immediately that ECK was referring to PLAINTIFF and understood that ECK was charging him with  
10 engaging in the crime of cyberbullying.

11                  iv.    The publication of the Criminal Tweet was not privileged.

12                  v.     As a result of the publication and/or re-publication of the Criminal Tweet,  
13 PLAINTIFF has been exposed to hatred, contempt, ridicule, and/or obloquy; has been shunned or  
14 avoided; and/or has tended to be injured in his occupation.

15           B.     Plaintiff is informed and believes and on that basis alleges in support of a theory  
16 of intentional infliction of emotional distress:

17                   i.     Defendants’ publication and/or re-publication of the Criminal Tweet was  
18 outrageous.

19                   ii.    When publishing and/or re-publishing the Criminal Tweet, Defendants  
20 intended to cause harm to PLAINTIFF and/or acted with reckless disregard for the likelihood that  
21 PLAINTIFF would suffer emotional distress as a result of the publication and/or re-publication.

22                   iii.   As a result of the publication and/or re-publication of the Criminal Tweet,  
23 PLAINTIFF has suffered severe emotional distress. The publication and/or re-publication constituted  
24 a substantial factor in causing such distress.

25           11.    Plaintiff is informed and believes and on that basis alleges:

26                   A.     Defendants published and/or re-published the Criminal Tweet maliciously,  
27 oppressively, and fraudulently in retaliation for PLAINTIFF’s lawful expression of opinions about  
28

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<sup>1</sup> PLAINTIFF is not a racist. Based on PLAINTIFF’s current understanding of the law, this lawsuit does not seek redress for the “racist” component of the Criminal Tweet because it is not actionable.

1 economic growth and development in his community and the impact thereof on the quality of life in his  
2 community.

3 B. As recently as February 6, 2021, Defendants published and/or re-published a  
4 separate tweet that ominously warned PLAINTIFF to “remember your karma.”

5 C. As recently as February 8, 2021, ECK recognized that she had engaged in  
6 improper conduct against PLAINTIFF on Twitter and therefore tweeted that she would be “[s]hutting  
7 down social media for a while.”

8 D. PLAINTIFF is therefore entitled to punitive damages according to proof.

9 **Prayer**

10 FOR ALL THESE REASONS, PLAINTIFF respectfully prays for the following relief against  
11 all Defendants (and any and all other parties who may oppose PLAINTIFF in this lawsuit) jointly and  
12 severally:

- 13 A. General damages;
- 14 B. Special damages according to proof;
- 15 C. Punitive damages according to proof; and
- 16 D. All court costs incurred by PLAINTIFF in connection with this lawsuit; and
- 17 E. Any further relief that this Court may deem appropriate.

18 Date: February 15, 2021.

Respectfully submitted,  
BRIGGS LAW CORPORATION

20 By: Cory J. Briggs  
21 Cory J. Briggs

22 Attorneys for Plaintiff Joshua Billauer

**COMPLAINT FOR DAMAGES**

Exhibit "A"

Sign On | [wellsfargo.com](https://wellsfargo.com)

# JOSH BILLAUER, MBA

**Financial Advisor**

**Managing Director - Investments**

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**Email:** [josh.billauer@wellsfargoadvisors.com](mailto:josh.billauer@wellsfargoadvisors.com)



## My Background

Josh Billauer has been with Wells Fargo Advisors (and its predecessor firms) since 1998. A Managing Director - Investments and Senior PIM Portfolio Manager, Josh helps to manage in excess of \$900 million for select high net worth individuals and institutional clients. In addition to overseeing the portfolio management process, including the asset allocation models, rebalancing, tax management and implementation, Josh works closely with clients in navigating and planning for critical financial events.

Since 1996, Josh has sat on the Board of Directors for the Natural High Foundation, a San Diego nonprofit whose mission is to spread the message of an drug free lifestyle to our nation's youth. Josh also served as Board Chair for the Life Rolls On Foundation, an organization that hosts a nationwide series of programs for those with spinal cord injury. Additionally, Josh serves as a Sergeant with the San Diego Honorary Deputy Sheriff's Association.

Josh completed his undergraduate work at University of California at San Diego (UCSD) and later earned a Masters of Science in Business Administration with an emphasis in Financial and Tax Planning from San Diego State University. Josh also earned a substitute teaching credential with the San Diego Unified School District, allowing him the occasional opportunity to substitute teach at the elementary school level.

Josh and his wife Ricki have two daughters, Lexi and Sadie, as well as three "fur-kids", Juicy the English Mastiff, Monkey the Terrier and Mochi the Miniature Schnauzer. His personal interests include fishing, photography, surfing and travel.

Resident state: California

**My Associate(s):** Belinder Aurther, Operations Clerk ; Juliana Najor, Senior Registered Client Associate ; Krisztina Rollins, Senior Registered Client Associate ; Laura Gladhill, Senior Client Associate

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## My Experience

1998 - Present : Wells Fargo Advisors

### My Education & Credentials

Bachelor Degree, University of California at San Diego  
Masters in Business Administration, San Diego State University  
Senior PIM Portfolio Manager

### My Areas of Focus

[Business Services](#)  
[Estate Planning Strategies](#)  
[Retirement Planning](#)

### My Community Involvement

Board Member, Life Rolls On Foundation  
Board Member, Natural High Foundation  
Board Member, Green Elementary School PTA

Securities Registered in the following states: AK, AZ, CA, CO, CT, DC, DE, FL, ID, IN, MA, ME, MN, MT, NC, NH, NJ, NV, NY, OR, PA, SC, TX, UT, VA, VT, WA, WI

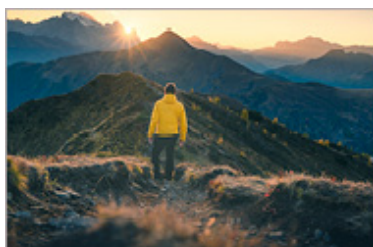
Insurance licensed in the following states: CA (Lic. # 0C46478)

JOSH BILLAUER: Financial Advisor: Wells Fargo Clearing Services, LLC

United States: California : [LA JOLLA Branch](#)

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**COMPLAINT FOR DAMAGES**

Exhibit "B"

**Marcela Escobar-Eck** 🦊 @SanDiegoLandUse  
@savedelcerro Joshua Billauer, mini dorm  
developer. You don't know me. If you want to  
discuss face to face, happy to. Keep spreading  
lies. It's great to see a racist anti-religion person  
calling out someone they don't even know behind  
anonymous accounts. Keep spreading your lies.

**Marcela Escobar-Eck** 🦊 @SanDiegoLandUse  
@savedelcerro @WellsFargo is this the kind of  
adviser you want working for you? A racist  
person who is engaging in cyberbullying?



**Marcela Escobar-Eck** 🙊

@SanDiegoLandUse



[@WellsFargo](#) is this the kind of adviser you want working for you? A racist person who is engaging in cyberbullying?

21:55 · 12/10/20 · [Twitter for iPhone](#)





Marcela Escobar-Eck 🦊 Retweeted



**Marcela Escobar-Eck** 🦊 🔒 · 12/10/20 ...

Replying to [@SanDiegoLandUse](#) and [@savedelcerro](#)

[@WellsFargo](#) is this the kind of adviser you want working for you? A racist person who is engaging in cyberbullying?



**COMPLAINT FOR DAMAGES**

Exhibit "C"



**Marcela Escobar-Eck** 🦊🔒

@SanDiegoLandUse

Lscp Arch/Planner •• 2 keep San Diego informed of Land Use & Regulatory trends 🧑  
'dat weird liberal friend U R not sure about. Kobayashi Maru 🚫 in Land Use

📍 San Diego 🌐 [AtlantisSD.com](https://AtlantisSD.com) 📅 Joined April 2009

1,216 Following 660 Followers

**COMPLAINT FOR DAMAGES**

Exhibit "D"



Follow

**Wells Fargo** 

@WellsFargo

Follow along for all the latest company news and updates. For customer service queries, please follow [@Ask\\_WellsFargo](#).

 San Francisco, CA  [stories.wf.com/scharf-we-must...](https://stories.wf.com/scharf-we-must...)  Joined March 2007

**306** Following    **322.8K** Followers