

CAUSE NO. DC-22-01388

|                            |   |                          |
|----------------------------|---|--------------------------|
| STATE OF TEXAS,            | § | IN THE DISTRICT COURT OF |
| Plaintiff,                 | § |                          |
|                            | § |                          |
| v.                         | § | DALLAS COUNTY, TEXAS     |
|                            | § |                          |
| BRITTANY DAWN DAVIS AND    | § |                          |
| BRITTANY DAWN FITNESS LLC, | § |                          |
| Defendants.                | § | 95TH JUDICIAL DISTRICT   |

**PLAINTIFF’S REPLY TO DEFENDANTS’ RESPONSE TO MOTION FOR  
DISCOVERY SANCTIONS**

1. Plaintiff, the State of Texas, submits this Reply to Defendants’ Response to its Motion for Discovery Sanctions and reasserts its requested relief for the Court to sanction Brittany Dawn Davis and Brittany Dawn Fitness LLC, pursuant to Texas Rules of Civil Procedure 215.2, for resisting discovery and blatantly violating this Court’s Order requiring Defendants to answer, under oath, all interrogatories in Plaintiff’s First Set of Interrogatories and produce all documents responsive to Plaintiff’s First Request for Production.

2. In their untimely response<sup>1</sup> to the Plaintiff’s Motion for Sanctions, Defendants make misleading and false statements in an unsupported attempt to justify their grossly incomplete and insufficient discovery responses. This reply brief will respond to each of those misleading and false statements which will only further support the appropriateness of the sanctions sought in this case.

**I. ARGUMENT**

3. Defendants assert their emails—for a number of years—were deleted by their web hosting company after a website update in 2018. Defendants further assert this fact was

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<sup>1</sup> Defendants’ Response, as well as a Motion to Strike Plaintiff’s Designated Expert, were filed on February 28, 2023, at 2:25 PM and 2:29 PM, but were not served on Plaintiffs in violation of Tex. R. Civ. P 21. Unless Defendants’ counsel can show proof of service via file and serve, Defendants’ conduct is sanctionable under Tex. R. Civ. P. 21b.

corroborated by two of the three recently deposed witnesses. It is undisputed that CBC Creative, a webhosting company that hosted Defendants' website in 2018, deleted the website files for bdawnfit.com from their server. However, the two witnesses Defendants are referencing in their Response testified they *did not know* whether Defendants emails were on the website hosting server. *See* Affidavit of James Holian ("Holian Aff."), ¶¶ 2-3, Exhibits A & B.

4. The first witness that Defendants reference, Ms. Kyndal Banks,<sup>2</sup> testified under oath that she believed Defendants emails were hosted by Google and did not believe Defendants' emails were on the website hosting server. Holian Aff., ¶ 2, Exhibit A. The second witness that Defendants reference, Mr. Kevin Couch,<sup>3</sup> stated it was possible Defendants' used the "bdawnfit.com" emails as vanity email addresses which actually sent all email correspondence to a Google email account. Holian Aff. ¶ 3, Exhibit B. In fact, Mr. Couch did not know whether Defendants' emails were on the website hosting server. *Id.*

**Kyndal Banks:**

5 Q. Do you know whether CBC Creative deleted  
6 any email files?  
7 A. I don't know about the emails. But I --  
8 yeah, I don't know. My assumption would be that  
9 they wouldn't have access to them because most of  
10 them are hosted through Gmail. And so having your  
11 emails hosted on the server is kind of difficult to  
12 do, and so I'm not sure that that -- that that  
13 happened here. I don't remember it happening there.  
14 But I do know that they -- whatever they did have,  
15 that we had conversations and they did delete it.  
16 So...

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<sup>2</sup> Ms. Banks testified that she started working with Defendants for several stints between 2014 and 2019 as an independent contractor. Ms. Banks worked closely with Defendant Davis. Her duties included designing an entirely new website. Ms. Banks also worked on branding, creating content, digital assets, and consulting. Holian Aff., ¶ 2.

<sup>3</sup> Mr. Couch testified that he owns CBC Creative and that it used to be the web hosting company for Defendants' website between 2015 and 2018. Mr. Couch also provided management services to Defendant Brittany Dawn Davis in 2019. During his tenure as her manager, he worked with her daily. Holian Aff., ¶ 3.

17 Q. And your recollection is that that had to  
18 do with the website and not any specific email  
19 accounts?  
20 A. Yeah. Yeah. I don't remember them  
21 hosting her email there either, yeah.  
(Exhibit A, p. 145: 5-21)

**Kevin Couch:**

13 Q. Okay. And you mentioned just prior  
14 something about a forwarding Gmail account.  
15 Could you explain what you mean by that?  
16 A. Yeah. So a lot of -- a lot of times with  
17 website email addresses like this, those are just  
18 vanity email addresses that will go to a specified  
19 Gmail account. It's called forwarding. So it could  
20 have been that second account there; I just -- I  
21 just don't remember.  
(Exhibit B, p. 81: 13-21)

**Kevin Couch:**

8 Do you know for a fact the emails were  
9 deleted?  
10 A. I can -- I can tell you as a fact that  
11 anything on that server, which would have been  
12 emails, website files, I mean, anything that is  
13 website contents, online contents would have been  
14 deleted.  
15 Q. But whether she was using that server for  
16 hosting emails or not, can you be sure of that as  
17 you sit here today?  
18 A. I cannot be sure of that, no.  
19 Q. Because, in fact, we talked last time  
20 about how --  
21 A. She could have had a forwarder.  
22 Q. -- that could have been a forwarder vanity  
23 email?  
24 A. Correct.  
(Exhibit B, p. 144: 8-24)

5. Further, Mr. Couch helped Defendants organize and develop a refund process in response to consumer complaints in February 2019. Mr. Couch stated Defendant Brittany Dawn Davis never complained of having issues with retrieving evidence of consumer correspondence due to any deleted emails when she vetted consumer refund requests.

**Kevin Couch:**

23 Q. With respect to step number two, once a  
24 consumer has been identified as actually being one  
25 of her clients, did she ever tell you, I can't find  
1 consumer exchange of information because all the  
2 emails were deleted?

3 A. Oh, no, no, that was never the case.

(Exhibit B, p. 233: 23-25; p. 234: 1-3)

6. Mr. Couch's testimony is corroborated by Defendants' document production. Upon reviewing Defendants 52,747 pages of production, Plaintiff identified eleven screenshots of Defendants' email inbox displaying email correspondence with consumers via Gmail for all of the years Defendants operated the online fitness and nutrition business. *Holian Aff.*, ¶ 4, Exhibit C.

7. The document production shows that in 2019, Defendants provided a screenshot in response to ten consumers' requests for refund, indicating Defendants had correspondence with the complaining consumers. *Holian Aff.*, ¶ 4, Exhibit C. Defendants' ten screenshots show correspondence with consumers in 2014, 2016, 2017, and 2018. Defendants produced an eleventh screenshot of Defendants' inbox with consumer correspondence from 2015 showing numerous email exchanges. *Id.* However, Defendants only produced a portion of one email chain.

8. Thus, Defendants' claim that email correspondence was lost in 2018 because of the CBC Creative server falls short when Defendants referenced consumer correspondence from 2014 through 2018 in Defendants' response to consumer refund requests in 2019.

9. Further, Defendants did not raise the issue of deleted emails when they responded to Plaintiff's First Set of Interrogatories and First Set of Requests for Production. *Holian Aff.*, ¶ 5, Exhibit D. Neither did Defendants raise the issue of deleted emails at the September 2022 hearing on Plaintiff's motion to compel. Plaintiff laboriously examined 52,747 pages of Defendants' production only to uncover:

- a. 575 additional consumers not listed on Defendants' Client List;

- b. Documents relating to any macro nutrition calculations or adjustments for only 103 consumers; and
- c. Documents related to check-ins or coaching for only 156 consumers.

Though Defendants communicated technical difficulties in gathering the responsive documents during the motion, they did not state they were unable to respond to Plaintiff's discovery requests due to deleted or lost emails. Defendants' new excuse is precisely why the Plaintiff's requested sanctions are necessary.

10. Next, Defendants' claim in their Response that "deposition testimony revealed that a large amount of Defendants' earnings were not derived from sales to consumers." However, Ms. Banks' testimony is that Defendants' fitness website used a payment processing system, either WuFoo or WooCommerce, that deposited consumer payments into Defendants' PayPal account. Holian Aff., ¶ 2, Exhibit A. When asked about Defendants' income from sponsorships, Ms. Banks testified that Defendants received payment through wire transfers or checks, indicating PayPal was the exception. Holian Aff., ¶ 2, Exhibit A. Thus, the vast majority of the \$1,561,727 PayPal deposits derived from consumer payments through Defendants' website.

**Kyndal Banks:**

- 1 Q. This will just, you know, be my ignorance
- 2 here, but how is that payment processing system on
- 3 either Wufoo or WooCommerce, how is that related in
- 4 any way to PayPal, for example?
- 5 A. So essentially Wufoo would do the
- 6 transaction and then would deposit into an account,
- 7 her PayPal. And then there -- I'm pretty sure that,
- 8 like, it was used as, like, the payment gateway. So
- 9 essentially what they do is just take PayPal's API
- 10 that says you're allowed to process transactions and
- 11 put it into the form and then present it that way.
- 12 And then I believe that the same process
- 13 for WooCommerce, you can choose your account or
- 14 stuff that you want to -- it to go to, and then it
- 15 will do it through that.

(Exhibit A, p. 103: 1-15)

**Kyndal Banks:**

4 Q. What about for the sponsorship money, did  
5 that also come through PayPal or different?  
6 A. Different. So some people would wire  
7 transfer her. Sometimes we would get checks.  
8 Sometimes she would get paid through PayPal but it  
9 was -- PayPal with those stuff is very limited.  
10 They didn't really like doing that. And so it was  
11 more of, like, things that they could, I guess,  
12 track better, yeah.

(Exhibit A, p. 155: 4-12)

11. Finally, Defendants assert in defense of the requested sanctions that they offered their computer and passwords so they could confirm all the documents were produced. During the meet and confer on the motion to compel, Defendants offered to provide Plaintiff with Defendants' computer and passwords. Defendants' Exhibit #1 is an email wherein counsel mentioned there were several hundred files that did not download from PayPal properly as the clear basis for the reason Plaintiff may want to inspect the electronic information. Nothing about years' worth of deleted emails was mentioned. Now, in defense of a grossly insufficient production, Defendants' hide behind this offer to inspect as if a cure-all.

12. The Court ordered Defendants to produce all documents in September 2022. Plaintiff spent months reviewing Defendants' production only to learn the production was not responsive. Now on the eve of trial, Defendants assert their email correspondence was deleted and they are unable to produce responsive documents, despite Defendants having had access to such emails in 2019.

## II. CONCLUSION

13. Plaintiff requests the matters regarding which the discovery order was made be taken as established for the purposes of the action pursuant to Tex. R. Civ. P. 215.2(b)(3). The

requested discovery would prove that Defendants violated the DTPA and establish the scope of these violations.

14. Plaintiff reasserts its request for an order precluding Defendants from opposing the Plaintiff's designated claims or precluding Defendants from introducing designated matters into evidence pursuant to Tex. R. Civ. P. 215.2(b)(4). Defendants have failed to produce an accurate or reliable client list, nor an accurate or reliable indication of the amount those clients paid for services, nor the customized macronutrient information or coaching correspondence for nearly all her former clients. Defendants should not be permitted to testify at trial, nor otherwise introduce any evidence, that would claim she did provide the coaching or customized macronutrient assessments for her clients when Defendants failed to respond to proper discovery requests and failed to comply with this Court's order to turn over all that material. This new "the emails were deleted" defense should not be permitted. These sanctions are no more severe than necessary to promote the fair adjudication of this case and full compliance with proper discovery requests. Sanctioning Defendants is just and would demonstrate that a party may not obscure the truth and benefit thereby through a failure to honestly and fully respond to discovery.

15. Plaintiff reasserts its request for attorneys' fees and expenses in preparing, filing, and appearing on the Motion for Discovery Sanctions to obtain relief pursuant to Tex. R. Civ. P. 215.2(b)(8), and requests additional sanctions as the Court deems appropriate.

Respectfully submitted,

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(512) 473-8301 (facsimile)

**ATTORNEYS FOR THE STATE**

**CERTIFICATE OF SERVICE**

I certify that on the 1st day of March 2023, the *Plaintiff's Reply to Defendants' Response to Motion for Sanctions* were served on Defendants, Brittney Dawn Davis and Brittney Dawn Fitness, LLC, by and through their attorney via e-service as indicated below:

Calvin G. McLean  
Johnston & McLean, PLLC  
7950 Legacy Drive Suite 300  
Plano, TX 75024  
*Attorneys for Defendant*

*via e-service:* goc.garfieldlaw@gmail.com

/s/James Holian

JAMES HOLIAN



Affidavit  
of  
James Holian

CAUSE NO. DC-22-01388

STATE OF TEXAS,  
Plaintiff,

v.

BRITTANY DAWN DAVIS AND  
BRITTANY DAWN FITNESS LLC,  
Defendants.

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IN THE DISTRICT COURT OF

DALLAS COUNTY, TEXAS

95TH JUDICIAL DISTRICT

**AFFIDAVIT OF JAMES MICHAEL HOLIAN**

Before me, the undersigned authority, personally appeared James Michael Holian, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

1. My name is James Michael Holian. I am over the age of 18 and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. On January 25, 2023, I attended the oral and videotaped deposition of Kyndal Banks. Ms. Banks worked for Defendants Brittany Dawn Davis and Brittany Dawn Fitness, LLC, as an independent contractor providing various services: web development, design, strategy, content creation and management services. Ms. Banks worked closely with Defendant Brittany Dawn Davis for several stints between 2014 and 2019. Pertinent portions of Ms. Banks' deposition testimony is attached hereto as Exhibit A.

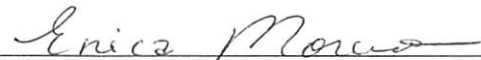
3. On January 30, 2023, and February 16, 2023, I attended the oral and videotaped deposition of Kevin Couch. Mr. Couch testified that his company, CBC Creative, provided web hosting for Defendant Brittany Dawn Davis' and Brittany Dawn Fitness, LLC's website from approximately 2015 to 2018. In addition to providing web content and hosting services to Defendants, Mr. Couch provided management services to Defendant Brittany Dawn Davis in 2019. Pertinent portion of Mr. Couch's deposition testimony is attached hereto as Exhibit B.

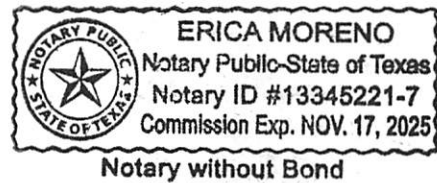
4. A true and correct copy of screenshots that Defendants produced in the document production, evidencing correspondence with consumers in 2014, 2015, 2016, 2017 and 2018, are attached hereto as Exhibit C.

5. Defendants claim that years' worth of emails were lost during a server migration in 2018. However, this claim is a novel one. Defendants did not assert any difficulty responding to discovery because of deleted emails in any of their responses to Plaintiff's First Set of Interrogatories and First Set of Requests for Production.

  
\_\_\_\_\_  
JAMES MICHAEL HOLIAN

SUBSCRIBED AND SWORN to before me on this 1 day of March 2023.

  
\_\_\_\_\_  
NOTARY PUBLIC in and for the State of Texas  
My commission expires November 17, 2025



# Exhibit A

CAUSE NO. DC-22-01388

STATE OF TEXAS, ) IN THE DISTRICT COURT  
 )  
Plaintiff, )  
 )  
v. ) DALLAS COUNTY, TEXAS  
 )  
BRITTANY DAWN DAVIS AND )  
BRITTANY DAWN FITNESS LLC, )  
 )  
Defendants. ) 95TH JUDICIAL DISTRICT

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ORAL AND VIDEOTAPED DEPOSITION OF  
KYNDAL BANKS

JANUARY 25, 2023

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ORAL AND VIDEOTAPED DEPOSITION of KYNDAL BANKS,  
produced as a witness at the instance of the  
Plaintiff, and duly sworn, was taken in the  
above-styled and numbered cause on the 25th day of  
January, 2023, from 12:02 p.m. to 5:30 p.m., before  
Michelle L. Munroe, CSR in and for the State of  
Texas, stenographically reported, at the Office of  
the Attorney General, 12221 Merit Drive, Suite 650,  
Dallas, Texas, pursuant to the Texas Rules of Civil  
Procedure and the provisions stated on the record or  
attached hereto.

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|---|--|
| <p style="text-align: right;">142</p> <p>1 was having those conversations with her. But every<br/> 2 time I come back, it's always like a rebrand. So I<br/> 3 felt like that that website was, like, retired<br/> 4 essentially and moved somewhere else.<br/> 5 Q. Okay. I'm going to show you another<br/> 6 exhibit here, Exhibit Number 7.<br/> 7 (Exhibit 7 marked.)<br/> 8 MR. MCLEAN: Thank you.<br/> 9 Q. And this is a document that at the bottom<br/> 10 is marked CID_062619_BDFitness_CBCCreative and then<br/> 11 ending in 000010 and continues for 15 pages to<br/> 12 00025.<br/> 13 The first four pages of Exhibit Number 7<br/> 14 is a Website Maintenance Agreement.<br/> 15 Have you ever seen this agreement before?<br/> 16 A. I don't recall seeing it.<br/> 17 Q. Okay. It references in the agreement on<br/> 18 page 2 of 4, Payment for Services: Customer shall<br/> 19 pay company the fixed rate of \$1,500 per month.<br/> 20 Do you know whether Brittany Dawn Fitness<br/> 21 was paying CBC Creative \$1,500 a month at any time<br/> 22 that you were working for her?<br/> 23 A. No, because she wasn't really engaged with<br/> 24 them when we were working together. I do remember a<br/> 25 call -- or not a call, an in-person meeting when it</p> | <p style="text-align: right;">144</p> <p>1 Q. Or at least that's what this document<br/> 2 says.<br/> 3 A. Sure. Yeah.<br/> 4 Q. Okay. And the document says that you're<br/> 5 acknowledging the website files for bdawnfit.com<br/> 6 will be deleted from the CBC Creative server?<br/> 7 A. Yes.<br/> 8 Q. What does that mean?<br/> 9 A. So they host her website on their own<br/> 10 servers, and so basically they're just saying you<br/> 11 have to download the whole website and get all those<br/> 12 files off of our servers before we delete it into<br/> 13 oblivion.<br/> 14 Q. Do you know if that was done?<br/> 15 A. I think that it was. So that was the<br/> 16 conversation that I was referencing earlier. The<br/> 17 woman that bought CBC Creative or whatever, she -- I<br/> 18 think that the plan was for us to just, like, start<br/> 19 over, I guess, or move it. I don't believe that we<br/> 20 downloaded it and then re-uploaded it, but we might<br/> 21 have.<br/> 22 But, yeah, it's just so that -- an<br/> 23 acknowledgment that it won't be hosted there<br/> 24 forever. And so -- but there were several<br/> 25 extensions and Brittany paid to have it extended.</p>             |
| <p style="text-align: right;">143</p> <p>1 was time for her to, like, move away from them that<br/> 2 I had with them all on there. But I assumed, yes,<br/> 3 because I remember being, like, \$1,500 is a ton of<br/> 4 money for this. So I think that she -- just from<br/> 5 that call, it was, like -- or conversation, that she<br/> 6 was paying the money.<br/> 7 Q. Okay.<br/> 8 A. Yeah.<br/> 9 Q. The next document marked at the bottom<br/> 10 ending in 14, do you see that, the fifth page, at<br/> 11 the top it says Website File Waiver?<br/> 12 A. Okay. Yeah.<br/> 13 Q. Could you describe what we're looking at<br/> 14 on the page that's titled Website File Waiver?<br/> 15 A. Yeah. So essentially she was, like, I'm<br/> 16 not going to host your website -- or I don't want to<br/> 17 work with you anymore. And they gave her a certain<br/> 18 amount of time to get it off of their servers, and<br/> 19 so I think that's what this is.<br/> 20 Q. Okay. This says -- is this your signature<br/> 21 here?<br/> 22 A. It is.<br/> 23 Q. So you signed -- you signed this document<br/> 24 on April 24, 2018.<br/> 25 A. Okay.</p>   | <p style="text-align: right;">145</p> <p>1 Q. Okay. The third prong or bullet point<br/> 2 here says, CBC Creative is not liable for any<br/> 3 website or email files once they have been deleted.<br/> 4 A. Yeah.<br/> 5 Q. Do you know whether CBC Creative deleted<br/> 6 any email files?<br/> 7 A. I don't know about the emails. But I --<br/> 8 yeah, I don't know. My assumption would be that<br/> 9 they wouldn't have access to them because most of<br/> 10 them are hosted through Gmail. And so having your<br/> 11 emails hosted on the server is kind of difficult to<br/> 12 do, and so I'm not sure that that -- that that<br/> 13 happened here. I don't remember it happening there.<br/> 14 But I do know that they -- whatever they did have,<br/> 15 that we had conversations and they did delete it.<br/> 16 So...<br/> 17 Q. And your recollection is that that had to<br/> 18 do with the website and not any specific email<br/> 19 accounts?<br/> 20 A. Yeah. Yeah. I don't remember them<br/> 21 hosting her email there either, yeah.<br/> 22 Q. Okay. And then the next page and the<br/> 23 remaining pages appear to be --<br/> 24 A. That conversation --<br/> 25 Q. -- that conversation?</p> |

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| <p style="text-align: right;">102</p> <p>1 Squarespace.</p> <p>2 Q. And they also had a payment processing</p> <p>3 system, correct?</p> <p>4 A. I don't think they did at that time, yeah.</p> <p>5 Q. So who was the payment processor?</p> <p>6 A. I'm not sure. Because when I came in, we</p> <p>7 basically ripped that website apart and just did a</p> <p>8 whole new one, and that new one was WordPress.</p> <p>9 Q. And who hosted that?</p> <p>10 A. So WordPress is the -- is the hosting,</p> <p>11 yeah.</p> <p>12 Q. Okay. And who was the payment processor</p> <p>13 for the WordPress site?</p> <p>14 A. So I think that there were different ones</p> <p>15 at the time. The first one was Wufoo, and that --</p> <p>16 that -- one of the reasons why we chose that company</p> <p>17 is because it did that part of it. So it was a form</p> <p>18 fill out and that's how you check out, essentially.</p> <p>19 And then I believe the second one -- I'm</p> <p>20 trying to think of what it is. There's a</p> <p>21 industry -- there's a standard one that WordPress</p> <p>22 always puts on. If I had it in front of me, I could</p> <p>23 look. But that -- it's like a very normal one.</p> <p>24 WooCommerce, there we go. And so that was the one</p> <p>25 after that.</p>  | <p style="text-align: right;">104</p> <p>1 So I think she did one for, like, Johnson</p> <p>2 &amp; Johnson or something, and they just completely</p> <p>3 destroyed that post. And so those types of things</p> <p>4 would happen a lot.</p> <p>5 Sweet Sweat, that one -- we flew out to</p> <p>6 California to film, and then I had to talk to the</p> <p>7 CEO because, like, people were DM'ing him then. So</p> <p>8 it was definitely more of a struggle to get them to</p> <p>9 do it.</p> <p>10 Q. Okay. You say more of a struggle, but</p> <p>11 was --</p> <p>12 A. It was still active.</p> <p>13 Q. It was still active?</p> <p>14 A. Uh-huh.</p> <p>15 Q. What percentage of -- acknowledging that</p> <p>16 this is an ebb and flow?</p> <p>17 A. Yeah.</p> <p>18 Q. What percentage loss would you -- would</p> <p>19 you have attributed in 2019 to, you know, some of</p> <p>20 the negative publicity that was generated in that</p> <p>21 February 2019 time frame?</p> <p>22 A. Probably all.</p> <p>23 Q. Okay.</p> <p>24 A. Yeah. It is hard because we would go</p> <p>25 without talking, and she didn't like to reflect back</p>  |
| <p style="text-align: right;">103</p> <p>1 Q. This will just, you know, be my ignorance</p> <p>2 here, but how is that payment processing system on</p> <p>3 either Wufoo or WooCommerce, how is that related in</p> <p>4 any way to PayPal, for example?</p> <p>5 A. So essentially Wufoo would do the</p> <p>6 transaction and then would deposit into an account,</p> <p>7 her PayPal. And then there -- I'm pretty sure that,</p> <p>8 like, it was used as, like, the payment gateway. So</p> <p>9 essentially what they do is just take PayPal's API</p> <p>10 that says you're allowed to process transactions and</p> <p>11 put it into the form and then present it that way.</p> <p>12 And then I believe that the same process</p> <p>13 for WooCommerce, you can choose your account or</p> <p>14 stuff that you want to -- it to go to, and then it</p> <p>15 will do it through that.</p> <p>16 Q. How was her when you came back in 2019, so</p> <p>17 the third stint --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- what was the status of the affiliate</p> <p>20 and sponsorships at that time?</p> <p>21 A. They were still there but definitely less.</p> <p>22 Most of the times with the -- you know, you get</p> <p>23 canceled, and so -- and then Brittany at that point</p> <p>24 had garnered quite a bit of hate followers, so they</p> <p>25 would go and attack those.</p> | <p style="text-align: right;">105</p> <p>1 really, you know, and so I didn't know the status</p> <p>2 when I came in. And also during that time I was</p> <p>3 even less involved with the books aspect of it and</p> <p>4 the negotiating because Kevin had started doing some</p> <p>5 of that stuff.</p> <p>6 So -- but the conversations were that they</p> <p>7 were all being, you know, cut, yeah. And trying to</p> <p>8 preserve which ones we can, but it's, like, probably</p> <p>9 90 percent, yeah.</p> <p>10 Q. Okay. Was that any part of your role in</p> <p>11 the couple months you were there was trying to --</p> <p>12 A. Keep them afloat.</p> <p>13 Q. -- save some of that?</p> <p>14 A. Yeah, keep them afloat, help with the</p> <p>15 completions of the ones that she was contractually</p> <p>16 obligated to do so. But lightly because roles</p> <p>17 changed as Kevin was kind of trying to figure out,</p> <p>18 like, what he was doing in his capacity or whatever,</p> <p>19 you know.</p> <p>20 Q. Okay. So that was now a hat that Kevin</p> <p>21 was wearing more than you?</p> <p>22 A. For sure, uh-huh.</p> <p>23 Q. There are several email accounts</p> <p>24 associated with the Brittany Dawn Fitness. I am</p> <p>25 going to show you as an exhibit rather than a</p> |

|  |  |
|--|--|
| <p style="text-align: right;">154</p> <p>1 month. And then we would have, like, a flash sale<br/> 2 that could be, like, 40,000. And so I think that in<br/> 3 those years that it's probably likely that it was,<br/> 4 like, 250 a year maybe. And then the times that I<br/> 5 wasn't there, I'm not sure. And then after those<br/> 6 times, I didn't really have access to really see.<br/> 7 Q. Thank you.<br/> 8 A. Uh-huh.<br/> 9 Q. What about the same question but related<br/> 10 to paid advertising?<br/> 11 A. So we didn't do much of that from 2014 to<br/> 12 2016 but there was some. It was -- it had to have<br/> 13 been 10 percent annual, maybe less, so very small.<br/> 14 And then the second time period, I think that it's<br/> 15 possible that she got, like, 100,000 maybe a year in<br/> 16 sponsorships, maybe -- maybe more, between 100,000<br/> 17 and 250.<br/> 18 Q. And how did she receive payment for the BD<br/> 19 Fitness coaching clients? Was that all through<br/> 20 PayPal?<br/> 21 A. Yeah, I think so. I think so.<br/> 22 Q. Any other accounts you can think of?<br/> 23 A. Really trying to think. No, I don't think<br/> 24 we ever had it where it, like, direct deposited into<br/> 25 anything. So I think that PayPal was, like, our</p> | <p style="text-align: right;">156</p> <p>1 Q. How was that managed? Again, was that all<br/> 2 just through email?<br/> 3 A. Yeah. Yeah. So, like, the process would<br/> 4 be they would come on the site. They would<br/> 5 purchase. Then they would get the automated emails,<br/> 6 and then we would just communicate with them through<br/> 7 there until their time period was over.<br/> 8 There certainly was, like -- there's<br/> 9 other -- like, we would cross-check it sometimes<br/> 10 with PayPal, you know, like, transaction histories.<br/> 11 And so that's really about it. Wufoo would have the<br/> 12 collection of people for that, but mainly only those<br/> 13 payment processors would be the only secondary thing<br/> 14 to the emails.<br/> 15 Q. Okay. So there were no separate files<br/> 16 maintained out of the email inbox, so to speak, of<br/> 17 client information?<br/> 18 A. No. Yeah, no. Like, printing it or<br/> 19 something or anything, yeah.<br/> 20 Q. Right.<br/> 21 A. No.<br/> 22 Q. Or even, for that matter, creating, you<br/> 23 know, some type of, like --<br/> 24 A. Database.<br/> 25 Q. -- database.</p>  |
| <p style="text-align: right;">155</p> <p>1 main payment processor.<br/> 2 Q. Okay.<br/> 3 A. Yeah.<br/> 4 Q. What about for the sponsorship money, did<br/> 5 that also come through PayPal or different?<br/> 6 A. Different. So some people would wire<br/> 7 transfer her. Sometimes we would get checks.<br/> 8 Sometimes she would get paid through PayPal but it<br/> 9 was -- PayPal with those stuff is very limited.<br/> 10 They didn't really like doing that. And so it was<br/> 11 more of, like, things that they could, I guess,<br/> 12 track better, yeah.<br/> 13 Q. Okay. Who managed -- strike that. Never<br/> 14 mind.<br/> 15 How were client records maintained?<br/> 16 A. They really were not. Mainly because of<br/> 17 the massive amount of iterations of the websites.<br/> 18 Basically, like, it would just get redone any time a<br/> 19 new person came around. So with that, you know, if<br/> 20 it's done, it's, like, sloppily, you know.<br/> 21 Everything is just deleted and then you move on.<br/> 22 So most of the client records were done<br/> 23 through email. Like, if I -- you know, all the<br/> 24 communication, the payment stuff, all that was<br/> 25 really done through email and so...</p>  | <p style="text-align: right;">157</p> <p>1 A. Yeah, no. No.<br/> 2 Q. So how did Brittany Dawn Fitness know what<br/> 3 the physical limitations of its clients were for<br/> 4 coaching purposes when interacting with that<br/> 5 consumer say on, like, a second month?<br/> 6 A. So they had to fill out a questionnaire at<br/> 7 the beginning of it and they did all of that stuff.<br/> 8 And then through the coaching is basically just her<br/> 9 threads is what she would do, just the, you know,<br/> 10 week to week over whatever.<br/> 11 The second month, like, most returning<br/> 12 customers would be, like, all right, I'm going to do<br/> 13 a second month, and they would stay on their threads<br/> 14 that they were already on. They like to reference<br/> 15 it back and stuff, yeah.<br/> 16 Q. So she managed it through a continuing<br/> 17 thread?<br/> 18 A. Correct. Yeah. Yeah.<br/> 19 Q. Would the same answer be true for tracking<br/> 20 the macronutrient changes that she was recommending<br/> 21 to clients?<br/> 22 A. Yeah, the process would be she would get<br/> 23 their original stats, she would make it, and then<br/> 24 weekly they would tweak it based off of whatever<br/> 25 they said, and that would all be through the thread.</p> |



# Exhibit B

CAUSE NO. DC-22-01388

STATE OF TEXAS, ) IN THE DISTRICT COURT  
 )  
Plaintiff, )  
 )  
v. ) DALLAS COUNTY, TEXAS  
 )  
BRITTANY DAWN DAVIS AND )  
BRITTANY DAWN FITNESS LLC, )  
 )  
Defendants. ) 95TH JUDICIAL DISTRICT

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF

KEVIN COUCH

JANUARY 30, 2023

VOLUME 1

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION of KEVIN COUCH,  
produced as a witness at the instance of the  
Plaintiff, and duly sworn, was taken in the  
above-styled and numbered cause on the 30th day of  
January, 2023, from 9:17 a.m. to 12:22 p.m., before  
Michelle L. Munroe, CSR in and for the State of  
Texas, stenographically reported, at the Grayson  
County Court House, 100 W. Houston Street, Sherman,  
Texas, pursuant to the Texas Rules of Civil Procedure  
and the provisions stated on the record or attached  
hereto.

|   |  |
|---|--|
| <p style="text-align: right;">78</p> <p>1 obviously prior to me, and then loop me in.<br/> 2 I think I only got involved -- I don't<br/> 3 think there was any new deals, in fact, actually to<br/> 4 be honest with you whenever I -- we never got the<br/> 5 luxury of that at all, so I was dealing with past<br/> 6 deals and the rest of it.<br/> 7 Q. And how much advertisement revenue would<br/> 8 she earn, for example, for -- for something like<br/> 9 that for unboxing the -- in that particular case?<br/> 10 A. Say that again.<br/> 11 Q. How much -- what is the revenue that she<br/> 12 would earn for something -- for one of these, for<br/> 13 example, the -- the one example you provided where<br/> 14 she's unboxing on a video and creating content?<br/> 15 A. Somewhere between, memory serves me<br/> 16 correctly, 3- and \$5,000. And obviously every deal<br/> 17 is unique and different so...<br/> 18 Q. Would you know how much she had earned<br/> 19 in -- through advertising revenue on her social<br/> 20 media platforms from, say, 2013 to present?<br/> 21 A. I would not know.<br/> 22 Q. Would you know how much she earned in<br/> 23 advertising revenue for the several months that you<br/> 24 were, you know, acting as her, you know,<br/> 25 executive -- under the executive management</p> | <p style="text-align: right;">80</p> <p>1 I don't know.<br/> 2 Q. Okay. I'm going to show you what I'm<br/> 3 going to mark as Exhibit Number 4 a document that<br/> 4 was produced by defendants in discovery, Bates<br/> 5 stamped BDN_001089. And this appears to be a list<br/> 6 of email accounts used by the business.<br/> 7 Do you recognize any of these email<br/> 8 accounts, Mr. Couch?<br/> 9 (Exhibit 4 marked.)<br/> 10 A. I recognize -- I recognize two of them.<br/> 11 Q. Which two?<br/> 12 A. I recognize the first one,<br/> 13 brittanydawn@bdawndfit.com. And I recognize the<br/> 14 customer service one, the last one on the list.<br/> 15 Q. Okay. And the first one on the list,<br/> 16 brittanydawn@bdawndfit.com, how do you know that<br/> 17 account?<br/> 18 A. That was predominantly the one that I had<br/> 19 used to contact her. And if memory serves me<br/> 20 correct, it probably was a forwarded email situation<br/> 21 where it went to, like, a different Gmail account, I<br/> 22 guess, by means of a forwarding service. And it<br/> 23 could be that second email address. I can't<br/> 24 remember though. It doesn't stand out to me, but I<br/> 25 do remember the first and the last emails.</p> |
| <p style="text-align: right;">79</p> <p>1 agreement?<br/> 2 A. I would not know mainly due to the fact we<br/> 3 never got to do any deals so -- yeah.<br/> 4 Q. And it would have been new deals that<br/> 5 would have offered you the opportunity to earn a<br/> 6 commission?<br/> 7 A. Correct.<br/> 8 Q. I asked about advertisements, but would<br/> 9 the answers be any different for sponsorship?<br/> 10 Would you know how much Brittany Dawn<br/> 11 would have earned in terms of sponsorship?<br/> 12 A. No, that wouldn't be any different. I<br/> 13 wouldn't have any knowledge.<br/> 14 Q. Okay. I believe I asked you about<br/> 15 passwords to social media sites, but now I'm going<br/> 16 to ask more specific to email accounts.<br/> 17 Do you know who had access to email<br/> 18 accounts associated with BD Fitness?<br/> 19 A. Brittany did.<br/> 20 Q. Okay. Do you know who monitored the email<br/> 21 accounts associated with of Brittany -- Brittany<br/> 22 Dawn Fitness?<br/> 23 A. Brittany. Maybe Kyndal. I don't know<br/> 24 their arrangement, but my arrangement with Brittany,<br/> 25 I had no access to any of that but Kyndal may have.</p>   | <p style="text-align: right;">81</p> <p>1 Q. And the bdawndfitcustomerservice@gmail.com,<br/> 2 is that the email address that was created, you<br/> 3 know, in that early 2019 time frame?<br/> 4 A. Correct.<br/> 5 Q. And that was to handle the influx of<br/> 6 customer service complaints?<br/> 7 A. Correct. And I don't know if it was<br/> 8 created then.<br/> 9 Q. Okay.<br/> 10 A. It may have already existed, but that's<br/> 11 what she produced based on my suggestion of how to<br/> 12 handle things.<br/> 13 Q. Okay. And you mentioned just prior<br/> 14 something about a forwarding Gmail account.<br/> 15 Could you explain what you mean by that?<br/> 16 A. Yeah. So a lot of -- a lot of times with<br/> 17 website email addresses like this, those are just<br/> 18 vanity email addresses that will go to a specified<br/> 19 Gmail account. It's called forwarding. So it could<br/> 20 have been that second account there; I just -- I<br/> 21 just don't remember.<br/> 22 Q. Okay.<br/> 23 A. This is the one that was predominantly in<br/> 24 my contact list whenever I emailed her.<br/> 25 Q. At any point in time, were you using any</p>   |

|     |  |     |  |
|-----|--|-----|--|
| 141 | <p>1 Q. Do you know who managed the payroll for<br/>2 Brittany Dawn Fitness?<br/>3 A. I do not.<br/>4 Q. Do you know who managed expenses?<br/>5 A. I do not.<br/>6 Q. We talked about the Brittany Dawn Fitness<br/>7 website already, and we talked about how her<br/>8 business was at least largely an online business<br/>9 relation.<br/>10 Do you know how client records were<br/>11 maintained and managed by Brittany Dawn Fitness?<br/>12 A. I do not.<br/>13 (Exhibit 15 marked.)<br/>14 Q. Next I will mark as Exhibit Number 15 a<br/>15 10-page document that is Bates stamped BDN_035206<br/>16 through BDN_035215. And this appears to be an email<br/>17 from cloudHQ to bdawnfitcustomerservice@gmail.com on<br/>18 Wednesday, May 8, 2019. And the subject line reads:<br/>19 Save emails to Google Drive, email conversations are<br/>20 saved.<br/>21 Have you seen this email before?<br/>22 A. I don't know that I have seen this<br/>23 particular email before, but I'm aware what cloudHQ<br/>24 is.<br/>25 Q. That would be great if you could even just</p>   | 143 | <p>1 probably a categorization of folders inside of an<br/>2 email.<br/>3 Q. And for purposes of deposition, obviously,<br/>4 that's fine, I want to explore some of your<br/>5 assumptions.<br/>6 Did -- did you have any conversations with<br/>7 Brittany after, for example, the receipt of the CIDs<br/>8 about saving emails?<br/>9 A. Yeah, I wanted to make sure that she kept<br/>10 records properly. I believe I'm the one that<br/>11 recommended this service.<br/>12 Q. So why don't you tell me a little bit<br/>13 about your conversations or recollection of<br/>14 recommending this service to Brittany.<br/>15 A. Yeah. I mean, it was just -- you know,<br/>16 she was going -- she was getting -- obviously, this<br/>17 was would have been after the onslaught of the<br/>18 negative press and she was getting absolutely<br/>19 bombarded with emails and things.<br/>20 So I just kind of, again, based on my<br/>21 advertising and marketing and web development<br/>22 experience, I just offered a resource to kind of<br/>23 help her keep organized and make sure she doesn't,<br/>24 you know, lose any of those emails. Because if you<br/>25 remember, CBC deleted her server so she didn't</p> |
| 142 | <p>1 first help tell me what cloudHQ is.<br/>2 A. Yeah. So cloudHQ typically is for<br/>3 whenever your emails are hosted on a particular<br/>4 server and you're trying to save them from deletion.<br/>5 Sometimes it works; sometimes it doesn't. But it's<br/>6 a service that you would use for trying to keep<br/>7 emails via a server that has been deleted or is<br/>8 being deleted.<br/>9 Q. Okay. Do you know what the circumstances<br/>10 were that predated this May 2019 response, Success,<br/>11 your emails have been saved, what it was that either<br/>12 necessitated or predated a desire to send certain<br/>13 emails to cloudHQ for being saved?<br/>14 A. I would assume -- I would have to assume<br/>15 that it was just for basic recordkeeping.<br/>16 Q. And you say assume, so let me just break<br/>17 that down.<br/>18 Specifically with what it relates to email<br/>19 conversations that have been labeled on these<br/>20 various pages as: Ready to research a refund, legal<br/>21 mention, ask for POP, need proof of purchase, hate<br/>22 emails and that's it.<br/>23 Do you know what that's in reference to?<br/>24 A. I do not know specifically what it is in<br/>25 reference to. I can make some assumptions. It's</p> | 144 | <p>1 have -- she had lost emails once before so we wanted<br/>2 to make sure it didn't happen again just for<br/>3 organization sake.<br/>4 Q. To follow up on that last point quickly,<br/>5 you just mentioned that email had been -- that she<br/>6 had lost emails with the deletion of the data on<br/>7 the -- that had been with the CBC server.<br/>8 Do you know for a fact the emails were<br/>9 deleted?<br/>10 A. I can -- I can tell you as a fact that<br/>11 anything on that server, which would have been<br/>12 emails, website files, I mean, anything that is<br/>13 website contents, online contents would have been<br/>14 deleted.<br/>15 Q. But whether she was using that server for<br/>16 hosting emails or not, can you be sure of that as<br/>17 you sit here today?<br/>18 A. I cannot be sure of that, no.<br/>19 Q. Because, in fact, we talked last time<br/>20 about how --<br/>21 A. She could have had a forwarder.<br/>22 Q. -- that could have been a forwarder vanity<br/>23 email?<br/>24 A. Correct.<br/>25 Q. So I guess part of my first question then</p>   |

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1 A. My advice is once you completed steps one  
 2 and two per that is that you need to reengage with  
 3 the consumer and start at 25 percent if you provided  
 4 them with files and plans and, you know, whatever  
 5 she was providing. If you delivered goods to her  
 6 and provided a service, whether it was writing an  
 7 email or a phone call and you can track that, then  
 8 you need to start at 25. That was my opinion and my  
 9 suggestion. It morphed into something else  
 10 obviously but yes.

11 Q. So with that in mind, the answer to one of  
 12 my recent questions about whether or not Brittany  
 13 had expressed to you anything to the extent of, I  
 14 can't find this, you know, I can't figure out  
 15 whether to issue a refund because I can't find, you  
 16 know, email correspondence because it has been  
 17 deleted. You answered that question with  
 18 information about trying to even locate whether  
 19 customers existed.

20 So I guess the better question for me to  
 21 ask is: I'm referring to topic -- step number two.

22 A. Okay.

23 Q. With respect to step number two, once a  
 24 consumer has been identified as actually being one  
 25 of her clients, did she ever tell you, I can't find

235

1 CHANGES AND SIGNATURE  
 2 WITNESS: KEVIN COUCH - VOLUME 2  
 3 PAGE LINE CHANGE REASON  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_  
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 22 \_\_\_\_\_  
 23 \_\_\_\_\_  
 24 \_\_\_\_\_  
 25 \_\_\_\_\_

234

1 consumer exchange of information because all the  
 2 emails were deleted?

3 A. Oh, no, no, that was never the case.

4 Q. Okay. And if there were difficulties  
 5 with, you know, whether certain information had been  
 6 deleted or not, you were expressing that with  
 7 respect to issue number one, which is trying to  
 8 confirm whether someone even was or was not a  
 9 client?

10 A. My go to is always go back to the money  
 11 trail. Go back to the PayPal. Go back to  
 12 transactions list because that's going to be the  
 13 telltale.

14 MR. HOLIAN: Mr. Couch, thank you for  
 15 all of your time. I'm going to pass the witness.

16 MR. MCLEAN: Nothing from us today.  
 17 We'll reserve for trial.

18 THE VIDEOGRAPHER: The time is  
 19 11:57 a.m. and we are off the record.  
 20 (Deposition concluded at 11:57 a.m.)  
 21  
 22  
 23  
 24  
 25

236

1  
 2 I, KEVIN COUCH, have read the foregoing  
 3 deposition and hereby affix my signature that same is  
 4 true and correct, except as noted above.

5 \_\_\_\_\_  
 6 KEVIN COUCH  
 7 THE STATE OF TEXAS)  
 8 )  
 9 COUNTY OF DALLAS )  
 10  
 11 Before me, \_\_\_\_\_, on this day  
 12 Personally appeared KEVIN COUCH, known to me (or  
 13 proved to me under oath or through \_\_\_\_\_)  
 14 (description of identity card or other document)) to  
 15 be the person whose name is subscribed to the  
 16 foregoing instrument and acknowledged to me that they  
 17 executed the same for the purposes and consideration  
 18 therein expressed.  
 19 Given under my hand and seal of office this  
 20 \_\_\_\_\_ day of \_\_\_\_\_, 2023.  
 21  
 22 \_\_\_\_\_  
 23 NOTARY PUBLIC IN AND FOR  
 24 THE STATE OF \_\_\_\_\_  
 25

# Exhibit C

**Subject:** Re: Payment received from [REDACTED]  
**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>  
**To:** [REDACTED]  
**Date Sent:** 2019 02 14 11:48:28 0600  
**Date Received:** Thu Feb 14 17:48:28 UTC 2019  
**Attachments:** Screen Shot 2019 02 14 at 11.47.12 AM.png, Screen Shot 2019 02 14 at 11.47.45 AM.png

Hi [REDACTED]

Thank you for reaching out to me, and I am so sorry about this. I never intended on letting you down. I went back and looked into this further for you and we did in fact have email correspondence, and you had a very positive response + experience with me. Can you please explain further? Thank you. I've attached screenshots below for your reference and to review.

XoXo,  
Brittany Dawn

On Thu, Feb 14, 2019 at 10:23 AM [REDACTED] wrote:  
Hello,

With the recent media reports coming to light, I have found out that my competition plan, **advertised as "custom", was not, in fact, customized** but one sent out to many other women who purchased this plan.

Please remedy this **breach of contract** as soon as possible.

Thank you,  
[REDACTED]

On Sun, Apr 6, 2014 at 2:52 PM Brittany Davis <[bdavis536@gmail.com](mailto:bdavis536@gmail.com)> wrote:  
Here you go [REDACTED]! I think you're really going to enjoy this, especially the Flexible Dieting aspect! It sounds like you're a busy girl, so it'll be a PERFECT fit for you! Anyways, let me know if you have any questions, and welcome to #TeamBrittanyDawn!!

On Fri, Apr 4, 2014 at 6:47 PM, [REDACTED] via PayPal <[member@paypal.com](mailto:member@paypal.com)> wrote:



Apr 4 2014 16 47 40 PDT  
Transaction ID [2W669586T3047071X](#)

Hello Brittany Davis,

**You received a payment of \$225.00 USD from [REDACTED]**

To see a the transaction details, please log into your PayPal account. It may take a few moments for this transaction to appear in your account.

**Buyer information**

[REDACTED]  
[REDACTED]

**Instructions from buyer**

None provided

**Ship-to address** Unconfirmed

[REDACTED]  
[REDACTED]  
United States

**Shipping method**

Not specified

| Description | Unit price | Qty | Amount |
|-------------|------------|-----|--------|
|-------------|------------|-----|--------|

BIKINI CLIENTS / CONTEST PREP

\$225.00 USD

1

\$225.00 USD

---

**Total:** \$225.00 USD

**Receipt No: 0638-9823-2311-5831**

Please keep this number for future reference, as your customer doesn't have a PayPal Transaction ID for this payment.

---

 Questions? Visit the Help Center at: [www.paypal.com/help](http://www.paypal.com/help).

Thanks for using PayPal – the safer, easier way to pay and get paid online.

Please do not reply to this email. This mailbox is not monitored and you will not receive a response. For assistance, log in to your PayPal account and click **Help** in the top right corner of any PayPal page.

You can receive plain text emails instead of HTML emails. To change your Notifications preferences, log in to your account, go to your Profile, and click **My settings**.

PayPal Email ID PP1470 26d73e94e9f12



**Brittany Davis** 9/6/14  
Fwd: Testimonial Archive - brittanydawnfitness@gmail.com (All Mail)  
[REDACTED]! Brittany Dawn #TeamBrittanyDawn Begin forwarded message: From: [REDACTED]  
[REDACTED] Date: September 6, 2014 at 11:39:16 AM...

**Brittany Davis** 7/20/14  
Fwd: :) Archive - brittanydawnfitness@gmail.com (All Mail)  
----- Forwarded message ----- From: [REDACTED]  
[REDACTED] Date: Mon, Jul 7, 2014 at 7:42 PM Subject: :) To: B...

**Brittany Davis** 6/28/14  
Check in week 12 Archive - brittanydawnfitness@gmail.com (All Mail) 2 >>  
Yes send me updates on Tuesday & Thursday! Brittany Dawn  
#TeamBrittanyDawn

@ [REDACTED] & Brittany 6/23/14  
Check in week 11 Archive - brittanydawnfitness@gmail.com (All Mail) 3 >>  
Alright, I can do that!! ABSOLUTELY, I'd love to :) Is there anything you'd  
like me to write about in particular? [REDACTED]

**Brittany Davis** 6/17/14  
Check in week 10 Archive - brittanydawnfitness@gmail.com (All Mail) 2 >>  
Do 8-10 spears per meal! Yes that's correct about the cardio! I love leg  
raises, Russian twists, planks, & decline sit ups!!! Brittany Dawn #TeamBrit...


**Brittany Davis** 6/9/14  
Check in week 9 Archive - brittanydawnfitness@gmail.com (All Mail) 3 >>  
Yes ma'am! HAVE AT IT!!!! ;)

**Brittany Davis** 6/1/14  
Check in week 8 Archive - brittanydawnfitness@gmail.com (All Mail) 3 >>

----- Forwarded message -----

From: [REDACTED]  
Date: Mon, Jul 7, 2014 at 7:42 PM  
Subject: :)  
To: Brittany Davis <[brittanydawnfitness@gmail.com](mailto:brittanydawnfitness@gmail.com)>

My name is [REDACTED] I contacted Brittany after following her on various social media platforms for several months and taking special interests in her posts about flexible dieting and IIFYM. I knew that I wanted to compete before I started college, but I didn't want to be with a coach who would only have me eat chicken, broccoli, and brown rice. Brittany completely changed my thoughts about bikini prep; while I thought I would have low energy and extreme hunger the entire time, the complete opposite happened. She INCREASED my macros instead of decreasing; I had fantastic energy and made PR's in the gym, and even had my favorite toaster strudels for breakfast every morning. Brittany transformed my body in a healthy way with no crazy methods that made me lose fat and reveal hard-earned muscle. With her guidance, I placed first in my first ever competition. I am beyond proud to have represented Team Brittany Dawn on stage.

 Compose

Mail

Chat & spaces

 From ▾

 Any time ▾

 Has attachment

 To ▾

[Advanced search](#)





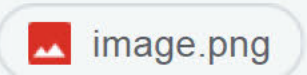
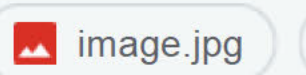

⌵ ↻ ⋮

1-14 of 14

⏪

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⌵

- [Redacted], me 8 Inbox Taking a week off - 2015, [Redacted] wrote: > >Perfect... 8/1/15
- Inbox Brittany Dawn Re: - Hey [Redacted] Attached are the emails, I had to do it in batches due to our system is set up. Please let  
   +2 7/29/15
- Inbox [Redacted], me 3 (no subject) - To: [Redacted] M Subject: Re: [Redacted], This sounds borderline disordere&ating, so pl... 7/2/15
-  [Redacted], me 10 Inbox Hey! - 2015, [Redacted] wrote: >Britt my bloating has ... 6/15/15
- Inbox [Redacted], me 7 Check in - PM, [Redacted] wrote: >Basically I'm havig t... 4/27/15
- Inbox [Redacted], me 37 Hi! - PM, [Redacted] wrote: > youonly gave me 1932 fo... 4/8/15  
  
- Inbox [Redacted] Hi - From: [Redacted] Sent: Tuesday, March 24, 2015 10:23:54 PM ToBrittany Davis Subject: Re... 3/27/15
- me Currently Away Re: Hi - Hey love! Thank you so much for your inquiry, email, or purchase! I amcurrently away o... 3/19/15
- me Currently Away Re: [Redacted] pictures [Redacted] - Hey love! Thank you so muc... 3/18/15
- Inbox [Redacted] pictures [Redacted] BDN\_00674 3/18/15

Mail

 Inbox

 Starred

 Snoozed

 Sent

Chat

+



No conversations

[Start a chat](#)

Spaces



No spaces yet

[Create or find a space](#)

Meet



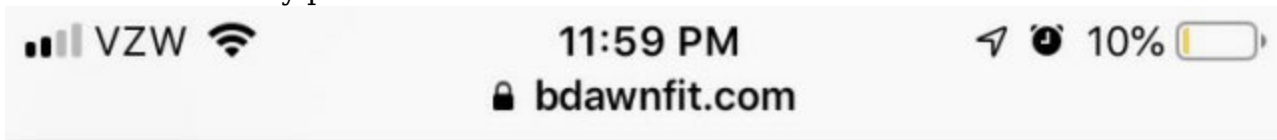
**Subject:** Re: Refund  
**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>  
**To:** [REDACTED]  
**Date Sent:** 2019 02 08 14:17:56 0600  
**Date Received:** Fri Feb 08 20:17:56 UTC 2019  
**Attachments:** Screen Shot 2019 02 08 at 2.14.53 PM.png, Screen Shot 2019 02 08 at 2.15.09 PM.png

Hi [REDACTED]

Thank you for reaching out to me, and I'm so sorry for this. I truly do apologize. I did in fact go through my records/emails/inbox, and did find that I responded to every email that you sent me. Is there a specific email that I might have never received that you are referencing? I'd be more than happy to work through this with you girl! I am attaching screenshots below as proof of our correspondence during this time, and again, of all the emails that I received from you, for reference. I'm looking forward to hearing from you [REDACTED]!

XoXo,  
Brittany Dawn

On Fri, Feb 8, 2019 at 12:03 AM [REDACTED] wrote:  
Hi I purchased a plan (attached) and did not get replies back on my emails I had sent. I would like a refund for my purchase.



Order # 2201 was placed on January 8, 2016  
and is currently Processing.

## Order details

60 Day Bridal Fitness Plan Macros  
and Training × 1 \$150.00

---

|                 |          |
|-----------------|----------|
| Subtotal:       | \$150.00 |
| Discount:       | -\$45.00 |
| Payment method: | PayPal   |
| Total:          | \$105.00 |

## Customer details

Email:

[REDACTED]

Phone:

[REDACTED]





Inbox (1,693) Sent Drafts (63) Flagged

Sort by Unread

- Refund
Inbox - bdawnfitcustomerservice@gmail.com
12:03 AM

Hi I purchased a plan (attached) and did not get replies back on my emails I had sent. I would like a refund for my purchase.
- Brittany & brittanydawn@bdawnfit.com**
3/9/16

**Week 6 Check In** Sent - Bdawnfit 2 >>

Ok, no worries. I would like for you to keep your macros the same this week. And I want you to really focus on hitting them consistently for the ne...
- Brittany Dawn**
2/28/16

**Week 5 Check In** Sent - Bdawnfit 3 >>

Ohhh ok! I was slightly confused! Hah!
- Brittany Dawn**
2/19/16

**Re: Week 4 Check in** Sent - Bdawnfit

Hey [redacted] Happy Friday sweet girl, how are you feeling today? You are doing just fine. Remember that your diet is 90% of your results with this progra...
- Brittany Dawn**
1/28/16

**Re: Week 3 Check In** Sent - Bdawnfit

Hey [redacted] Happy Thursday love, it's almost the weekend, yaaaaaay! I would like for you to go ahead and cut 5 grams of carbs and 3 grams of fats this...
- Brittany Dawn**
1/20/16

**Re: Week 2 Check in** Sent - Bdawnfit

Hey [redacted] How are you feeling today love?! You're making great progress! I would like for you to go ahead and keep your macros as they are this week, alrig...
- brittanydawn@bdawnfit.com**
1/12/16

**Re: Week 1 Check In** Sent - Bdawnfit

Hey [redacted] I'm so excited for you to get started on this program girl! Don't hesitate to ask me any questions, that's what I'm here for! Let me know if you ha...
- BRITTANYDAWNFITNESS**
1/8/16

**[Brittany Dawn Fitness] New customer order...** Inbox - techsupport@bdawnfit.com

New customer order You have received an order from [redacted] The order is as follows: Order #2201 (January 8, 2016) Product Quantity Price 60 Da...
- BRITTANYDAWNFITNESS**
1/3/16

**[Brittany Dawn Fitness] Cancelled order (20...** Inbox - techsupport@bdawnfit.com

Cancelled order The order #2086 from [redacted] has been cancelled. The order was as follows: Order: 2086 (January 3, 2016) Product Quantity Price...

No M

(1,693) Sent Drafts (63) Flagged

People

- Sort by Unread
- Refund** 12:03 AM  
Inbox - bdawnfitcustomerservice@gmail.com  
Hi I purchased a plan (attached) and did not get replies back on my emails I had sent. I would like a refund for my purchase.
- Brittany & brittanydawn@bdawnfit.com** 3/29/16  
Week 6 Check In Sent - Bdawnfit  
Ok, no worries. I would like for you to keep your macros the same this week. And I want you to really focus on hitting them consistently for the ne...
- Brittany Dawn** 2/28/16  
Week 5 Check In Sent - Bdawnfit  
Ohhh ok! I was slightly confused! Haha!
- Brittany Dawn** 2/19/16  
Re: Week 4 Check In Sent - Bdawnfit  
Hey [redacted] Happy Friday sweet girl, how are you feeling today? You are doing just fine. Remember that your diet is 90% of your results with this progra...
- Brittany Dawn** 1/28/16  
Re: Week 3 Check In Sent - Bdawnfit  
Hey [redacted] Happy Thursday love, it's almost the weekend, yaaaaay! I would like for you to go ahead and cut 5 grams of carbs and 3 grams of fats this...
- Brittany Dawn** 1/20/16  
Re: Week 2 Check In Sent - Bdawnfit  
Hey [redacted] How are you feeling today love?! You're making great progress! I would like for you to go ahead and keep your macros as they are this week, alrig...
- brittanydawn@bdawnfit.com** 1/12/16  
Re: Week 1 Check In Sent - Bdawnfit  
Hey [redacted] I'm so excited for you to get started on this program girl! Don't hesitate to ask me any questions, that's what I'm here for! Let me know if you ha...
- BRITTANYDAWNFITNESS** 1/8/16  
[Brittany Dawn Fitness] New customer order... Inbox - techsupport@bdawnfit.com  
New customer order You have received an order from [redacted]. The order is as follows: Order #2201 (January 8, 2016) Product Quantity Price 60 Da...

No Message Selected

**Subject:** Re: Issue with Past Order

**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>

**To:** [REDACTED]

**Date Sent:** Thursday, February 14, 2019 12:47:10 PM GMT 06:00

**Date Received:**

**Attachments:** Screen Shot 2019 02 14 at 12.45.44 PM.png, Screen Shot 2019 02 14 at 12.45.55 PM.png

---

Hi [REDACTED],

Thank you for reaching out to me, and I am so sorry about this. I never intended on letting you down and I did just that. I looked into your situation, and did find that you in fact received your program and that we had great email correspondence and communication. I'm a little caught off guard by this specific scenario?

XoXo,  
Brittany Dawn

On Sun, Feb 10, 2019 at 8:01 PM [REDACTED] wrote:

Hello I'm writing in because I was and have been extremely upset with the service I received from you. I purchased a 90 personalized plan for \$260 from you. The plan I received was not personalized at all as I've compared to others. Additionally, I felt the lack of support and contact from you was very lacking. The macros also were low and often wouldn't get explanation of my concerns. I would often get little or generic replies or no reply after that. I never even received the full amount of training that I paid for. I assumed \$260 for personalized programming you would have been able to be more responsive and provide better service. I've included screenshots of the PayPal transaction to this email. I looked to you as coach since you promoted you were NASM certified. Overall, just very disappointed with it since \$260 is a lot of money especially for laughable coaching.

Regards,

[REDACTED]



- Brittany Dawn** 4/28/16  
 [REDACTED]\_Week 7 Check-in Sent - Bdawnfit 2 >>  
 Hey [REDACTED]! How have you been love? Happy Thursday! We are venturing home from our honeymoon, and I wanted to start catching up on emails w...
- Brittany & brittanydawn@bdawnfit.com** 4/7/16  
 [REDACTED]\_Week 6 Check-in Sent - Bdawnfit 2 >>  
 Thank you so much [REDACTED]!!! It's almost here!
- brittanydawn@bdawnfit.com** 3/31/16  
 [REDACTED]\_Week 5 Check-in Sent - Bdawnfit 2 >>  
 Hey [REDACTED] Go ahead and keep your macros the same this week. If there's a certain food that makes you feel bloated or uncomfortable though, try elim...
- Brittany Dawn** 3/23/16  
 [REDACTED]\_Week 4 Check-in Sent - Bdawnfit 2 >>  
 Yes, you are making steady progress which is EXACTLY what you want! Anything faster might not be maintainable. Slow and steady wins the race,...
- brittanydawn@bdawnfit.com & Brittany** 3/17/16  
 [REDACTED]\_Week 3 Check-in Sent - Bdawnfit 3 >>  
 If you'd like to, you can add in one additional HIIT session for 20 minutes! Brittany Dawn www.bdawnfit.com
- brittanydawn@bdawnfit.com & Brittany** 3/9/16  
 [REDACTED]\_Week 2 Check-in Sent - Bdawnfit 2 >>  
 Hey [REDACTED] No changes with your proteins or fats right now. As far as what types of fats to eat, some great options are: avocado, almond butter, pean...
- Brittany Dawn** 3/3/16  
 Re: [REDACTED]\_Week 1 Check-in Sent - Bdawnfit  
 Happy Thursday [REDACTED]! You are doing incredible with the program so far, and I am so proud of you! I would like for you to keep your macros the same, and lets...
- brittanydawn@bdawnfit.com & Brittany** 2/21/16  
 BDawnFit 90 Day Program Sent - Bdawnfit 2 >>  
 That sounds great! With this approach you will be leaning out :) Brittany Dawn www.bdawnfit.com



**Brittany Dawn**

February 21, 2016 at 2:25 PM

**BD**

BdawnFit 90 Day Program

To: [REDACTED]

Hey [REDACTED]

I am so excited for you to get started with me, and I have no doubt that you're going to love everything about Flexible Dieting! Remember that any foods are allowed, as long as they fit your macros! The foods list is just to give you proper guidance!

Don't forget that this is just your starting point, and that I will be making adjustments as needed through out the next 12 weeks with me. If you need help with recipes or meal prep, I do have e-books available for purchase! Check out the 'Plan Eat Lose' e-book that includes 33 recipes on my website!

Keep in mind that I do have a referral program: refer three people to me, and you'll receive a free month of workouts/coaching/training! All they have to do is list your name in the form when they fill it out! :)

Don't hesitate to reach out to me about what supplements you should be taking! All supplements can be purchased here for FREE shipping:

[www.bdawnfit.1stphorm.com](http://www.bdawnfit.1stphorm.com)

*You will receive free shipping if you use the link above! My favorite items and personal stack is: Ice Cream Sandwich Level-1 Protein Powder, M-Factor Goddess Multivitamin, and Ignition! **For you, I would recommend beginning with the Level-1 Protein + M-Factor Goddess Multivitamin!** Use my link to purchase, send me your receipt, and I'll send you an extra little surprise in the mail!*

If you have any questions, don't be scared to ask! That's what I'm here for! If you can only make it to the gym 4-5 days per week, that's fine! Make sure you get plugged into our group on Facebook: Team Brittany Dawn for amazing support from your fellow teammates!

Welcome to #TeamBrittanyDawn!

Instagram: @brittany\_dawn\_fitness & @bdawnfit  
YouTube: Brittany Dawn  
Facebook: Brittany Dawn Fitness  
Private Facebook Group: Team Brittany Dawn  
Twitter: @bdawnfit

**Subject:** Re: Refund \$602.50  
**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>  
**To:** [REDACTED]  
**Date Sent:** Saturday, February 16, 2019 5:15:48 PM GMT 06:00  
**Date Received:**  
**Attachments:** Screen Shot 2019 02 16 at 5.14.03 PM.png

---

Hi [REDACTED],

Thank you for reaching out to me, and I am so sorry for this. It was never my intention to let you down, and I did just that. I did look into this/your situation for you, and I found that you did in fact receive your program as well as the email correspondence, which all seemed like incredibly positive feedback from you. Can you please advise? Thank you.

XoXo,  
Brittany Dawn

On Wed, Feb 13, 2019 at 8:01 AM [REDACTED] wrote:

Dear Brittany,  
I know how busy you are with all of your emails so I will keep this brief.  
I am writing to request a full refund in the amount of \$602.50 for both of my plans that were not personalized to my specific needs as advertised.  
Thank you,  
[REDACTED] (Formerly [REDACTED])  
[REDACTED]

Sent from AOL Mobi e Mai  
Get the new AOL app: [mai.mobi.e.ao.com](http://mai.mobi.e.ao.com)

Sent from AOL Mobi e Mai  
Get the new AOL app: [mai.mobi.e.ao.com](http://mai.mobi.e.ao.com)

**Brittany Dawn** 11/16/16  
8 Sent - Bdawnfit 2 >>  
[REDACTED] I'm always here for you sister!!!! <3

**Brittany Dawn** 11/14/16  
Re: [REDACTED] Sent - Bdawnfit  
Hey [REDACTED] Wow girl, this email LITERALLY just made my day!!! I would love to help you out with this girl... this is what it's ALL ABOUT! Please do not lose hope...

**Brittany Dawn** 11/7/16  
7 Sent - Bdawnfit 2 >>  
That means three sets of 12 - 15 reps, whichever number you can reach!

**Brittany Dawn** 11/1/16  
6 Sent - Bdawnfit 3 >>  
Yes, it is! You've got this!

**Brittany Dawn** 10/24/16  
Check in 5 Sent - Bdawnfit 2 >>  
That's not the case at all! And we can ALWAYS incorporate refeeds :)

**Brittany Dawn** 10/18/16  
Re: 4 Sent - Bdawnfit  
Hey [REDACTED], I hope that you had a blessed weekend girl! How are you feeling today?? I'm SO happy with your progress this week girl, you are on FIRE! Lets st...

**Brittany Dawn** 10/10/16  
Week 3 Sent - Bdawnfit 2 >>  
You too [REDACTED]

**Brittany Davis**  
Re:  
To: [REDACTED]

Sounds great! You're so welcome!

On Sat, Jul 5, 2014 at 9:44 AM, [REDACTED]  
I really appreciate your help Brittany...I will keep you posted

Sent from my iPhone

[See More from Brittany Davis](#)

**Brittany Davis**  
Re:  
To: [REDACTED]

Yes, you can start with MyFitnessPal, or even try MyMacro easier to follow. Start with your first meal, and take it one meal at a time you're plugging in. If you feel that you're running out of fats have some to spare for your last meal of the day. It becomes easier on that part. If you're running low on a macro and need me as your coach. You've got this!

On Sat, Jul 5, 2014 at 8:39 AM, [REDACTED]

**Subject:** Re: Refund

**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>

**To:** [REDACTED]

**Date Sent:** Thursday, February 14, 2019 12:09:23 PM GMT 06:00

**Date Received:**

**Attachments:** Screen Shot 2019 02 14 at 12.08.14 PM.png, Screen Shot 2019 02 14 at 12.08.21 PM.png, 20190213\_162905.jpg, 20190213\_162852.jpg

Hi [REDACTED],

Thank you for your email, and I'm sorry about this. I did look into your situation for you, and we did have email correspondence as well as you did in fact receive your plan. I am attaching screenshots below for your reference and to review. Please let me know if you have any further questions or concerns, thank you.

XoXo,  
Brittany Dawn

On Wed, Feb 13, 2019 at 3:31 PM [REDACTED] wrote:

Hello,

It has come to light that the services I bought from you were not authentic. I bought two plans promising individualized training and macros which I was falsely led to think I was receiving. Now, I see that I wasn't promised individualized plans. I would like to remedy the breach of contract with a full refund of both plans. I've attached screenshots of both receipts.

shown below for your reference:

## Order #1911

| Product   | Quantity | Price    |
|---|----------|----------|
| 60 Day Challenge - 12/26/15-12/29/15<br><br>Download 1: <a href="#">New Year's 60-Day Challenge</a><br>Download 2: <a href="#">60-Day Challenge</a> | 1        | \$130.00 |

[Intro](#)

Download 3:

[FAQs](#)

Download 4:

[Food List](#)

Download 5:

[Home](#)

[Workout](#)

[Modifications](#)

Download 6:

[Macronutrient](#)

[Instructions](#)

[Guide](#)

**Subtotal:**

\$130.00

**Payment Method:**

PayPal

**Total:**

\$130.00

## Your details

Email:



Thank you for your  
order

Your order has been received and is now being  
processed. Your order details are shown below

processed. Your order details are shown below  
for your reference:

## Order #2930

| Product   | Quantity | Price    |
|---|----------|----------|
| 90 Day Individualized Macro & Training  | 1        | \$260.00 |
| Please fill out the form here:<br><a href="http://bdawnfit.com/90-day-individualized-macro-training-form/">http://bdawnfit.com/90-day-individualized-macro-training-form/</a> |          |          |
| <b>Subtotal:</b>  |          | \$260.00 |
| <b>Discount:</b>  |          | -\$39.00 |
| <b>Payment Method:</b>  |          | PayPal   |
| <b>Total:</b>   |          | \$221.00 |

## Customer details

• Email: 

**Brittany & brittanydawn@bdawnfit.com** 5/4/16  
BDawnFit 90 Day Program Sent - Bdawnfit 6 >>  
That's okay [REDACTED] And thank you sweet girl, it was an incredible time for us! As far as your macros go, keep them as they are for now. I will make...

**Brittany Dawn** 2/27/16  
Re: Check in Sent - bdawnfitchallenge@bdawnfit.com  
Yes love, please do!

**Brittany Dawn** 2/27/16  
Re: Check in Archive - bdawnfitchallenge@bdawnfit.com  
This message has no content.

**BRITTANYDAWNFITNESS** 2/27/16  
[Brittany Dawn Fitness] New customer order... Inbox - techsupport@bdawnfit.com  
New customer order You have received an order from [REDACTED]. The order is as follows: Order #2930 (February 27, 2016) Product Quantity Price 90...


**Brittany Dawn** 2/26/16  
Check in Sent - bdawnfitchallenge@bdawnfit.com 2 >>  
What name did you request under love?!

**Brittany Dawn** 2/14/16  
Re: Check in Sent - bdawnfitchallenge@bdawnfit.com  
Cereal would work just fine! Oatmeal is a great option too with fruit.

**Challenge Email** 2/13/16  
Re: Cardio Sent - bdawnfitchallenge@bdawnfit.com  
Rest day macros! Brittany Dawn www.bdawnfit.com

**Brittany Dawn** 2/8/16  
Re: Check in Sent - bdawnfitchallenge@bdawnfit.com  
Ok, I want you to do 3 HIIT sessions this week for 20 minutes :)




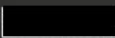
Brittany Dawn 

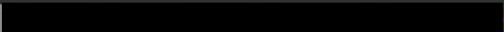
May 4, 2016 at 2:00 PM

BD 

Re: BDawnFit 90 Day Program

To: 

That's okay  And thank you sweet girl, it was an incredible time for us! As far as your macros go, keep them as they are for now. I will make adjustments if needed during your next check in!


On Apr 20, 2016, at 9:13 AM,  wrote:

Hello!

Congratulations on your wedding! You were so beautiful!


I apologize for my absence. I was going through some personal things that I needed to deal with in order to continue with my fitness journey. I still worked out about 4x a week and kept to my numbers, but wasn't as strict. I was also traveling I weigh about 124 so I did gain 1 lb. I'm ready to lose again :). However, I was thinking too that I will need to adjust my workouts now to 5x a week. Will my macros need to change? I'm starting on Month 2 in my workouts and liking them :) Thank you for your time.

On Tuesday, March 15, 2016 1:03 PM, Brittany Dawn <[brittanydawn@bdawnfit.com](mailto:brittanydawn@bdawnfit.com)> wrote:

Happy Tuesday 

How are you feeling today love? You are doing great this week, and I am so proud of you for that! I would like for you to go ahead and keep your macros as they are this week, and lets see what another week brings to the table for you! As far as your HIIT cardio goes, I would prefer that it be done all in one go, rather than split up! :)

XoXo,  
Brittany Dawn

On Mar 13, 2016, at 9:37 PM,  wrote:

Hello!

I'm doing good so far and I feel like I'm being really challenged with these new workouts! I can already feel my body getting stronger.

Do you think if I can only do 3x of the listed workouts, that it'll still be effective? Also if I were to split my hiit ca

**Subject:** Re: Refund

**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>

**To:** [REDACTED]

**Date Sent:** Wednesday, February 13, 2019 3:23:05 PM GMT 06:00

**Date Received:**

**Attachments:** Screen Shot 2019 02 13 at 3.22.06 PM.png, Screen Shot 2019 02 13 at 3.22.11 PM.png

---

Hi [REDACTED],

Thank you for reaching out to me, and I am so sorry for this. I'm slightly confused can you please explain? I just checked into our conversations, and I was actually the last one to send an email, and was waiting for your response. I've attached screenshots below.

XoXo,  
Brittany Dawn

On Wed, Feb 13, 2019 at 11:17 AM [REDACTED] wrote:

The card I have is now closed, but I paid with PayPal, will you be able to send it back to my PayPal account?

On Wednesday, February 13, 2019, 9:34:11 AM MST [REDACTED] wrote:

He o,

I have attached my receipt from a purchase I made with Brittany Dawn Fitness in 2017. I purchased a customized meal plan and workout package, and like most others, I did not get what I paid for. I was so frustrated with the lack of response from Brittany that I just said 'forget it', and didn't press the matter. In light of everything that has come to light, I would like a refund or some way to rectify this situation.

Thank you for hearing out my situation.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Brittany Dawn**

Sent - Bdawnfit May 28, 2017 at 12:13 PM

BD

Re: BRITTANY DAWN FITNESS CHECK-IN TEMPLATE

To: [REDACTED]

Hi [REDACTED],

Happy Sunday love! How has your Memorial Day weekend been so far?! Have you been hitting your macros every day girl? Lets add in an additional cardio session this week!

XoXo,  
Brittany Dawn

PS: new youtube videos are live!

On May 26, 2017, at 8:48 AM, [REDACTED] wrote:

<BRITTANY DAWN FITNESS CHECK-IN TEMPLATE.docx>

**Brittany Dawn** 5/28/17  
 Re: BRITTANY DAWN FITNESS CHECK-IN TEMPLATE Sent - Bdawnfit  
 Hi [REDACTED] Happy Sunday love! How has your Memorial Day weekend been so far?! Have you been hitting your macros every day girl? Lets add in an additional...

**Brittany Dawn** 5/17/17  
 Re: check in.docx Sent - Bdawnfit  
 Hi [REDACTED] Happy Wednesday sweet girl! How are you doing today?! Your email just surfaced in my inbox, how are you feeling?! XoXo, Brittany Dawn PS: my 60...

**Brittany Dawn** 5/16/17  
 check in.docx Sent - Bdawnfit 2 >>  
 Hi [REDACTED] Good deal! You're doing just fine! And yes, the information will be released on Friday when enrollment opens love! :D

**Brittany Dawn** 5/3/17  
 Re: [REDACTED] check in Sent - Bdawnfit  
 Hi [REDACTED] Happy Wednesday girlfrannnn! How are you doing today?! I'm so happy that you enjoyed your vacation babe! TIME TO GET GOING AGAIN :) XoXo...

**Brittany Dawn** 4/14/17  
 Re: check in Sent - Bdawnfit  
 Hi [REDACTED] Happy Friday babe! How was your week?! You are doing just fine sister, I'm so proud of you! If you'd like to pause your program while you're away...

**Brittany Dawn** 4/6/17  
 Re: check in Sent - Bdawnfit  
 Hey [REDACTED] Happy Thursday! I hope that you're having a great day! Lets keep your macros the same and give it ONE more week of consistency. Your body ne...

**Brittany Dawn** 3/30/17  
 Week 2 check in [REDACTED] Sent - Bdawnfit 2 >>  
 You can have an untracked meal babe! I was just wondering! And yes, thats correct! YOU TOO BEAUTY!!!!

**Brittany Dawn** 3/23/17  
 Re: [REDACTED] check in Sent - Bdawnfit  
 Hi [REDACTED] Happy Thursday babe! You seem to be on the right track with everything! I'd like for you to keep your macros the same, alright?! No changes j...

Hi [REDACTED]  
 Happy Sunday love! How has your Memorial Day weekend been so  
 Lets add in an additional cardio session this week!

XoXo,  
 Brittany Dawn

PS: new youtube videos are live!

On May 26, 2017, at 8:48 AM, [REDACTED]  
 <BRITTANY DAWN FITNESS CHECK-IN TEMPLATE.docx>

**Subject:** Re: Refund for Custom Program

**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>

**To:** [REDACTED]

**Date Sent:** Wednesday, February 13, 2019 8:50:49 PM GMT 06:00

**Date Received:**

**Attachments:** Screen Shot 2019 02 13 at 8.49.56 PM.png, Screen Shot 2019 02 13 at 8.49.49 PM.png

---

Hi [REDACTED],

Thank you for reaching out to me, and I am so sorry for this. I did look into this situation, and do have proof that you received your program and the email correspondence. I'm attaching screenshots below for your reference and review. Thank you.

XoXo,  
Brittany Dawn

On Sun, Feb 10, 2019 at 1:12 AM [REDACTED] wrote:

Hi Brittany,

Please find my receipt attached. I would appreciate a refund.

Thank you for being honest.

Best,  
[REDACTED]

Sent from my iPhone

**Brittany Dawn**

10/12/17

Re: Week 3 Check In

Sent - Bdawnfit

Hi [REDACTED] Happy Thursday babe! How are you doing today?! Lets go ahead and cut 5 grams of fats from both sets of macros this week, alright? No changes oth...

**Brittany Dawn**

10/6/17

Day 7 Check In

Sent - Bdawnfit 2 >>

Of course [REDACTED] That's what I'm here for!

**Brittany Dawn**

9/26/17

Re: Day 1 Check In

Sent - Bdawnfit

Hi [REDACTED] Happy Tuesday love! I am so excited for you to get started with me!!!  
HERE WE GO!


**Brittany Dawn**

9/21/17

Re: BDawnFit 30 Day Program

Sent - Bdawnfit

You're so welcome [REDACTED] !!

Brittany Dawn 

September 19, 2017 at 10:01 PM

BD

B DawnFit 30 Day Program

To: 

Hey 

Happy Tuesday! I am so excited for you to get started with me, and I have no doubt that you're going to love everything about Flexible Dieting! Remember that any foods are allowed, as long as they fit your macros! The foods list is just to give you proper guidance!

Don't forget that this is just your starting point, and that I will be making adjustments as needed through out the next 4 weeks with me. If you need help with recipes or meal prep, I do have e-books available for purchase! Check out the 'Plan Eat Lose' e-book that includes 33 recipes on my website!

Recipe E-Book: <http://bdawnfit.com/product/plan-eat-lose-vol-1/>

HIIT E-Book (home cardio sessions): <http://bdawnfit.com/product/hiit-e-book/>

Keep in mind that I do have a referral program: refer three people to me, and you'll receive a free month of workouts/coaching/training! All they have to do is list your name in the form when they fill it out.

Don't hesitate to reach out to me about what supplements you should be taking! All supplements can be purchased here for FREE shipping:

[www.1stphorm.com/bdawnfit](http://www.1stphorm.com/bdawnfit)

*You will receive free shipping if you use the link above! My favorite items and personal stack is: Ice Cream Sandwich Level-1 Protein Powder, M-Factor Goddess Multivitamin, and Ignition! **For you, I would recommend beginning with the Level-1 Protein + M-Factor Goddess Multivitamin!** Use my link to purchase, send me your receipt, and I'll send you an extra little surprise in the mail!*

**My recommended Superfood Complex:** [imprettyfit.com](http://imprettyfit.com) -> discount code: BDAWN20

If you have any questions, don't be scared to ask! That's what I'm here for! If you can only make it to the gym 4-5 days per week, that's fine! Make sure you get plugged into our group on Facebook: Team Brittany Dawn for amazing support from your fellow teammates!

Team Brittany Dawn Facebook Group: <https://www.facebook.com/groups/321632724673359/>

**Subject:** BDawnFit Program

**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>

**To:** [REDACTED]

**Date Sent:** Monday, February 11, 2019 2:35:32 PM GMT 06:00

**Date Received:**

**Attachments:** Screen Shot 2019 02 11 at 2.31.41 PM.png,Screen Shot 2019 02 11 at 2.31.34 PM.png,Screen Shot 2019 02 11 at 2.31.49 PM.png

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Hi [REDACTED],

Thank you for reaching out to me, and I am so sorry about this situation and for letting you down as your coach. That was never my intention, and it breaks my heart knowing that's how you feel about this. I'm doing what I can to make things right. I did look into your program, and saw that you did in fact received the program that you paid for, as well as the coaching too. We have email correspondence and I am attaching a few screenshots below for you to reference and review. I would be more than happy to honor this time though with another 90 days of workouts, a program, coaching (including FaceTime check ins), or any e books of choice. Let me know, I am looking forward to hearing from you [REDACTED]. Again, I truly apologize that you weren't happy with my program, and I'm here to listen.

XoXo,  
Brittany Dawn



Brittany Davis

Sent - Brittany Dawn February 18, 2018 at 7:04 PM

BD

BDawnFit 90 Day Program

To: [REDACTED]

Hey [REDACTED]

Happy Sunday! I am so excited for you to get started with me, and I have no doubt that you're going to love everything about Flexible Dieting! Remember that any foods are allowed, as long as they fit your macros! The foods list is just to give you proper guidance!

Don't forget that this is just your starting point, and that I will be making adjustments as needed through out the next 12 weeks with me. If you need help with recipes or meal prep, I do have e-books available for purchase! Check out the 'Plan Eat Lose' e-book that includes 33 recipes on my website!

Recipe E-Book: <http://bdawnfit.com/product/plan-eat-lose-vol-1/>

HIIT E-Book (home cardio sessions): <http://bdawnfit.com/product/hiit-e-book/>

Keep in mind that I do have a referral program: refer three people to me, and you'll receive a free month of workouts/coaching/training! All they have to do is list your name in the form when they fill it out.

Don't hesitate to reach out to me about what supplements you should be taking! All supplements can be purchased here for FREE shipping:

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*You will receive free shipping if you use the link above! My favorite items and personal stack is: Ice Cream Sandwich Level-1 Protein Powder, M-Factor Goddess Multivitamin, and Ignition! **For you, I would recommend beginning with the Level-1 Protein + M-Factor Goddess Multivitamin!** Use my link to purchase, send me your receipt, and I'll send you an extra little surprise in the mail!*

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Welcome to #TeamBrittanyDawn! Make sure to tag me in your posts on social media so that I can keep up with you!

Sign up for my email subscription here: <http://bdawnfit.us11.list-manage.com/subscribe?u=909bc2d422ef4507891e922bb&id=807ecff874>


Instagram: @brittany\_dawn\_fitness & @bdawnfit

YouTube: Brittany Dawn Fitness

**Brittany & [REDACTED]** 4/16/18


Touching Base Inbox - Bdownfit 4 >>

Yes that's what I mean girl! Cut 10 grams of carbs and 5 grams of fats babe!

 **[REDACTED]** 4/1/18


End of week 5 Inbox - Bdownfit

Hey Brittany! Client: [REDACTED] Week Number: End of week 5 Program You're On: 90 day challenge Weight Starting Weight:150 Last Weeks Weight: 15...

 **Brittany & [REDACTED]** 3/27/18


End of week 4 (1 month in) Inbox - Bdownfit 4 >>

Honestly girl, you just have to decide. And be disciplined. There's no magic trick to it, as crazy as that sounds! YOU CAN ABSOLUTELY DO THIS...

 **Brittany & [REDACTED]** 3/21/18


End of week 3 Inbox - Bdownfit 2 >>

Hi [REDACTED], Happy Wednesday sister! How are you doing this week so far?! Are you hitting your macros every day? :) XoXo, Brittany Dawn

 **[REDACTED] & Brittany** 3/13/18


End of week 2 Inbox - Bdownfit 3 >>

Hey girl! I think I can speak for everyone when I say Monday was so rough with springing forward an hour this weekend, so sleepy! But other than tha...

 **Brittany & [REDACTED]** 3/7/18

End of week 1 check in Inbox - Bdownfit 2 >>

Hey [REDACTED] Happy Wednesday babe! How are you feeling today?! YES! You can add in some additional cardio sister — go for it! Lets keep your ma...

 **Brittany & [REDACTED]** 2/26/18


Week 1- Day 1 Check In Inbox - Bdownfit 4 >>

Of course girl, I totally understand! You don't absolutely need them, they're more of a personal preference at that point!

**Brittany & [REDACTED]** 2/22/18

Start of 90 day program Inbox - Bdownfit 2 >>

Aww [REDACTED]! I am so excited for you to get started with this program babe! TALK SOON!

 **Brittany Davis** 2/18/18

BDawnFit 90 Day Program Sent - Brittany Dawn

Hey [REDACTED], Happy Sunday! I am so excited for you to get started with me, and I have no doubt that you're going to love everything about Flexible Dieting!



BDawnFit  
Macros...na.pdf



BDawnFit  
FAQ.pdf



BDawnFit Food  
List.pdf



BDawnFit Macro  
Instructions.pdf



BDawnFit Month  
One.pdf



BDawnFit Month  
Three.pdf



BDawnFit Month  
Two.pdf



**Subject:** Re: BDawnFit 90 Day Program  
**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>  
**To:** [REDACTED]  
**Date Sent:** Wednesday, February 13, 2019 3:54:42 PM GMT 06:00  
**Date Received:**  
**Attachments:** Screen Shot 2019 02 13 at 3.53.39 PM.png

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Hi [REDACTED],

Thank you for reaching out to me, and I am so sorry about this. I looked into this for you, and did in fact find that we did have email correspondence. I will attach the screenshots below for your reference. I'd be more than happy to honor the time of this program, or any e books of choice. Just let me know either way. Thank you.

XoXo,  
Brittany Dawn

On Tue, Feb 12, 2019 at 11:30 PM [REDACTED] wrote:

This is the email I received after I purchased your \$300 program. I was told it would be individualized, but I've come to find out that it's the same as every other woman who brought this program. Also, I sent updates and after week 3, you stopped responding. I want a full refund. Thank you.

[REDACTED]

Forwarded message

**From:** Brittany Davis <[brittanydawn@bdawnfit.com](mailto:brittanydawn@bdawnfit.com)>  
**Date:** Thu, Sep 28, 2017 at 5:29 PM  
**Subject:** BDawnFit 90 Day Program  
**To:** [REDACTED]

Hey [REDACTED],

Happy Thursday! I am so excited for you to get started with me, and I have no doubt that you're going to love everything about Flexible Dieting! Remember that any foods are allowed, as long as they fit your macros! The foods list is just to give you proper guidance!

Don't forget that this is just your starting point, and that I will be making adjustments as needed through out the next 12 weeks with me. If you need help with recipes or meal prep, I do have e books available for purchase! Check out the 'Plan Eat Lose' e book that includes 33 recipes on my website!

Recipe E Book: [http://bdawnfit.com/product/plan\\_eat\\_lose\\_vol\\_1/](http://bdawnfit.com/product/plan_eat_lose_vol_1/)

HIIT E Book (home cardio sessions): [http://bdawnfit.com/product/hiit\\_e\\_book/](http://bdawnfit.com/product/hiit_e_book/)

Keep in mind that I do have a referral program: refer three people to me, and you'll receive a free month of workouts/coaching/training! All they have to do is list your name in the form when they fill it out.

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Welcome to #TeamBrittanyDawn! Make sure to tag me in your posts on social media so that I can keep up with you!

Sign up for my email subscription here: [http://bdawnfit.us11.list\\_manage.com/subscribe?u=909bc2d422ef4507891e922bb&id=807ecff874](http://bdawnfit.us11.list_manage.com/subscribe?u=909bc2d422ef4507891e922bb&id=807ecff874)

Instagram: @brittany\_dawn\_fitness & @bdawnfit

YouTube: Brittany Dawn Fitness

Facebook: Brittany Dawn Fitness

Private Facebook Group: Team Brittany Dawn

Twitter: @bdawnfit

SnapChat: bdawnfit

XoXo,  
Brittany Dawn

Thank you,

V/R,

████████████████████  
████████████████  
████████████████████  
██████████

...to start planning to begin a family. I have had the pleasure of being j...

**Brittany Davis, [REDACTED] & Brittany Dawn** 1/31/18  
Week 2 Inbox - Bdawnfit 4 >>  
Ahh that sounds so nice! As far as supplements go: I use protein powder,  
BCAAs, and a multi! All from 1st Phorm! [www.1stphorm.com/bdawnfit](http://www.1stphorm.com/bdawnfit)

**Brittany Dawn & [REDACTED]** 1/20/18  
Program Inbox - bdawnfit@gmail.com 4 >>  
Hi [REDACTED] Good Morning sister! How are you feeling today?! I'm so excited  
for you to get going! Let me know if you have any questions regarding sup...

**Subject:** Re:

**From:** Brittany Dawn <bdawnfitcustomerservice@gmail.com>

**To:** [REDACTED]

**Date Sent:** Tuesday, February 12, 2019 1:39:27 PM GMT 06:00

**Date Received:**

**Attachments:** Screen Shot 2019 02 12 at 1.37.37 PM.png

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Hi [REDACTED],

Thank you for reaching out to me, I'm so sorry that you felt disappointed by this program. I did look into this for you, and found that you did in fact receive the program and the email correspondence that you paid for. I am attaching a screenshot below for your reference and as proof.

XoXo,  
Brittany Dawn

On Tue, Feb 12, 2019 at 1:23 PM [REDACTED] wrote:

[REDACTED]

Looking for a refund for my new years program. I purchased your program and was constantly let down by your lack of communication. You wouldn't respond to emails and you wouldn't get back to the weekly check ins until days even weeks after the first email was sent.

Proof of purchase is attached

- 3/13/18
& Brittany

(No Subject) Inbox - bdawnfit@gmail.com 4 >  
 I just realized I sent my final challenge info to the wrong email. I'm sorry  
 😞
- 3/10/18
final check in day

Attachment: final challenge report.docx Inbox - bdawnfit@gmail.com
- 2/28/18
Brittany &

week 7 report Inbox - bdawnfit@gmail.com 2 >  
 Hi [redacted] Happy Wednesday sister! How are you feeling today love?! Girl. You are making GREAT progress this week!!!! I am so proud of you! No cha...
- 2/21/18
Brittany &

week 6 report Inbox - bdawnfit@gmail.com 2 >  
 Hey [redacted] Happy Wednesday love! I'm SO happy that you are feeling good with your progress babe! NON SCALE VICTORIES ARE THE BEST! Let...
- 2/17/18
Brittany

week 5 challenge report Inbox - bdawnfit@gmail.com 5 >  
 I wasn't asking you to change my macros. I asked the first and second week because I really couldn't hit the macros you gave me and I didn't get...
- 2/6/18
Brittany &

week 4 New Years Challenge Inbox - bdawnfit@gmail.com 2 >  
 Hi [redacted] Happy Tuesday! No worries love, how are you feeling about things?? XoXo, Brittany Dawn On Tue, Feb 6, 2018 at 12:19 AM, [redacted] ...
- 2/5/18
Brittany &

New Years Eve Challenge; week 3 progress r... Inbox - bdawnfit@gmail.com 2 >  
 Hi [redacted] Happy Monday babe! How are you feeling today?! I hope that you had a fabulous weekend! You seem to be right on track with everythin...
- 1/31/18
Brittany &

new years challenge Inbox - bdawnfit@gmail.com 8 >  
 Hmm ok! That seems like a pretty high carb meal already :) On Mon, Jan 29, 2018 at 3:41 PM, [redacted] ...

No Message Selected



### Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Debbie Walden on behalf of James Holian  
Bar No. 24108102  
debbie.walden@oag.texas.gov  
Envelope ID: 73229449  
Status as of 3/1/2023 2:24 PM CST

Associated Case Party: BRITTANY DAWN FITNESS LLC,

| Name          | BarNumber | Email                     | TimestampSubmitted   | Status |
|---------------|-----------|---------------------------|----------------------|--------|
| Calvin McLean | 24091885  | GoC.GarfieldLaw@gmail.com | 3/1/2023 11:43:34 AM | SENT   |

Associated Case Party: BRITTANYDAWNDAVIS

| Name          | BarNumber | Email                     | TimestampSubmitted   | Status |
|---------------|-----------|---------------------------|----------------------|--------|
| Calvin McLean | 24091885  | GoC.GarfieldLaw@gmail.com | 3/1/2023 11:43:34 AM | SENT   |

Case Contacts

| Name         | BarNumber | Email                      | TimestampSubmitted   | Status |
|--------------|-----------|----------------------------|----------------------|--------|
| Debbie Laird |           | debbie.laird@oag.texas.gov | 3/1/2023 11:43:34 AM | SENT   |

Associated Case Party: THE STATE OF TEXAS

| Name            | BarNumber | Email                         | TimestampSubmitted   | Status |
|-----------------|-----------|-------------------------------|----------------------|--------|
| JAMES HOLIAN    |           | james.holian@oag.texas.gov    | 3/1/2023 11:43:34 AM | SENT   |
| Monica Wadleigh | 24132098  | monica.wadleigh@oag.texas.gov | 3/1/2023 11:43:34 AM | SENT   |