

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____ x Index No. 154668/2023

JACOB H. BEAM,

Plaintiff,

VERIFIED COMPLAINT

-against-

LIBBIE MUGRABI,

Defendant.

_____ x

Plaintiff Jacob H. Beam, by and through his undersigned counsel, for his Complaint against the above-captioned Defendant, alleges as follows:

PARTIES

1. Plaintiff is an artist and photographer who, during the relevant time period, was a resident of New York County.

2. Defendant Libbie Mugarbi, who resides at [REDACTED] Street in Manhattan, is well known in the New York art world. She and her ex-husband, David Mugarbi, were described in a *Tatler* magazine article dated June 16, 2021 as “the power couple of New York Society” until their “multimillion-dollar divorce” in December 2020. Upon information and belief, and as reported in press articles, the Defendant and her ex-husband own one of the most extensive Andy Warhol art collections, worth billions of dollars.

JURISDICTION AND VENUE

3. Pursuant to CPLR 301, this Court has personal jurisdiction over this matter.

4. Pursuant to CPLR 503, venue is proper in this Court because the parties, during the relevant time period, either resided and/or did business within the County, and the acts

complained of occurred within this County.

RELEVANT FACTS

5. During December 2021, Plaintiff was referred to the Defendant through a friend who was traveling with the Defendant. Defendant then asked Plaintiff to fly to Hawaii at her expense to do a photoshoot, which he did. Defendant's assistant in New York had asked Plaintiff to send his website information (jacobhalestudio.com) to them for review by the Defendant. Plaintiff complied with this request. Although the photoshoot in Hawaii never took place, Plaintiff met with the Defendant on Maui, where Defendant looked at some of Plaintiff's design work, which she found to be impressive. The Defendant then told Plaintiff that she wanted him to work with her in New York, and he agreed to do so.

6. Thereafter, a work-based relationship developed between the two parties, with Plaintiff acting as Defendant's personal assistant, while also doing web design, graphic design, photography and other tasks in support of Defendant's clothing brand, Libbie.Love.

7. As their personal and business relationship developed, Defendant paid for the airfare for Plaintiff to move from his home in Bloomington, Indiana to New York City, where he stayed at her Manhattan townhouse and worked out of her home studio on a daily basis.

8. On or about May 22, 2022, Defendant had a fit of rage, and impulsively shouted at the Plaintiff to "get out" of the townhouse. Defendant had apparently rummaged through Plaintiff's personal belongings and had found a journal that he was keeping, which made reference to her. She loudly told him, "How dare you write about me. You know I have a book deal with Simon and Schuster, and if you try to profit off my name I will send someone to shoot you through the head. Do you understand?"

9. Plaintiff complied with her demand that he leave the townhouse, and Defendant's PR assistant at the time booked a hotel room for him nearby. However, when Plaintiff got to the hotel, his hotel room had not been paid for, so he ended up paying for it himself.

10. The next day, May 23, 2023, while Plaintiff was walking in Central Park shortly before dinner time, Defendant called Plaintiff on the phone, demanding that he give her clothing designs that were stored on his laptop. She also threatened him, telling him that she was calling the police. Plaintiff's co-worker later told Plaintiff that she was present with the Defendant during a conversation with the police, and that Defendant had a wine glass in her hand and there were prescription pills all over the place. The co-worker also overheard the Defendant tell the police, that they needed to take her seriously because she was a rich woman.

11. That evening (May 23, 2022), Plaintiff was abruptly arrested in his hotel room at Le Meridien Central Park. The police officers told him that "a woman reported that you had held her at gunpoint and forced her to book this hotel room." Defendant also had falsely reported that Plaintiff had stolen her camera, which the police officers took from Plaintiff's hotel room as "evidence." In truth and in fact, and as Defendant well knew, the camera found in Plaintiff's hotel room was owned by the Plaintiff. Plaintiff was never in possession of and has never owned a gun.

12. Plaintiff was taken in a NYPD squad car to the 19th Precinct, where he was fingerprinted, photographed and processed. Based on Defendant's false allegations, he was charged with "Stalking" in the 2nd Degree ("Display or Possession and Threatening Use of Weapon"), PL120.55, a Class E Felony; and "Criminal Possession of a Weapon in the 4th Degree," PL265.01, a Class A Misdemeanor; and "Menacing" in the 2nd Degree (with use of a weapon), PL120.14, a Class A Misdemeanor. On May 24, 2022, Plaintiff was arraigned on these

charges in New York County Criminal Court and was released on his own recognizance (“ROR”).

13. After being released from jail, Plaintiff returned to his family home in Indiana, in a total state of shock and mortification, from being falsely arrested and thrown into jail based upon the intentionally and maliciously false accusations by Defendant. Thereafter, he has continuously suffered from extreme anxiety and depression.

14. On or about September 6, 2022, all of the criminal charges against the Defendant were dismissed. However, on September 26, 2022, he was forced to return to New York again to retrieve his camera that had been seized by the police at the time of his arrest.

15. Due to the post-traumatic distress that he has continued to experience, Plaintiff has been unable to work full-time, and has been in a near-constant state of anxiety and depression. He supports himself as best he can by delivering food on a part-time basis, and he has sought the assistance of a therapist to help him try to function and to try to overcome his psychological and emotional issues caused by horrific ordeal he has undergone, which was directly caused by Defendant’s outrageous and malicious actions.

16. Plaintiff filed a Summons With Notice against the Defendant on May 23, 2023.

JURY TRIAL DEMAND

17. Plaintiff demands a trial by jury on all issues so triable.

**AS AND FOR A FIRST CAUSE OF ACTION
(Malicious Prosecution)**

18. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

19. A claim for malicious prosecution in New York is properly pled if it alleges (a) that a criminal proceeding was commenced against the plaintiff as a result of a complaint defendant had made to the police; (b) that plaintiff was arrested as a result of defendant's complaint; (c) that defendant had known that the incident complained of had not occurred and thus that the criminal proceeding had lacked probable cause; (d) that the criminal proceeding was terminated in favor of plaintiff, and that the dismissal was not inconsistent with the innocence of the accused; (e) that defendant had acted willfully, maliciously, recklessly, and wantonly with intent to injure plaintiff in making the complaint to the police. See, e.g., *Cantalino v. Danner*, 96 N.Y. 2d 391, 396 (2001); *Bellissimo v. Mitchell*, 122 A.D. 3d 560, 561 (2d Dept. 2014); and *Spinner v. County of Nassau*, 103 A.D. 3d 875, 876-877 (2d Dept. 2014).

20. All of the elements for a valid cause of action for malicious prosecution are present here: (a) a criminal proceeding was commenced against the Plaintiff as a result of a complaint Defendant made to the police; (b) Plaintiff was arrested as a result of Defendant's false complaint to the police; (c) Defendant had known that the incident complained of had not occurred and thus that the criminal proceeding had lacked probable cause; (d) the criminal proceeding was terminated in favor of Plaintiff, in that all charges against him were dismissed; (e) the Defendant had acted willfully, maliciously, recklessly, and wantonly with intent to injure Plaintiff in making the complaint to the police.

21. As a result of said malicious prosecution, Plaintiff was damaged in an amount to be determined at trial, but in no event less than \$1 million.

**AS AND FOR A SECOND CAUSE OF ACTION
(Abuse of Process)**

22. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

23. A defendant is liable for Abuse of Process in New York when he or she causes legal process to be issued, intended to harm the plaintiff without excuse or justification, and to use the process in an improper manner to obtain a collateral objective. See, e.g., *Korsinsky v. Rose*, 120 A.D. 3d 1307, 1310 (2d Dept. 2014); and *Curiano v. Suozzi*, 63 N.Y. 2d 113, 116 (2d Dept. 1984).

24. All of the elements for a cause of action for abuse of process are present here, in that (a) the Defendant caused an arrest warrant to be issued based upon her false complaint to the police; (b) Defendant intended to harm the Plaintiff without excuse or justification, and (c) the use of the legal process based on false allegations was for an improper purpose and collateral objective, which was to inflict harm on the Plaintiff for whatever real or imagined offense that Defendant believed that Plaintiff had committed, which had caused her to fly into a rage and to eject him from her townhouse and business.

25. As a result of said abuse of process, Plaintiff was damaged in an amount to be determined at trial, but in no event less than \$1 million.

**AS AND FOR A THIRD CAUSE OF ACTION
(Defamation Per Se)**

26. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

27. Under New York law, the elements of a defamation claim are: (a) a false statement; (b) published to a third party without privilege or authorization; (c) fault as judged by, at minimum, a negligence standard; (d) causing special harm to the plaintiff or defamation per se. See, e.g., *Dillon v. City of New York*, 261 A.D. 2d 34, 38 (1st Dept. 1999).

28. All of the necessary elements for a valid defamation claim are present here: (a) the statements and accusations made by the Defendant were completely false; (b) these false statements were published by the Defendant to the police; (c) Defendant's false statements were intentionally made to the police with the goal of maliciously harming Plaintiff without cause; and (d) said malicious and false statements caused Plaintiff special harm in that he was arrested and jailed as a direct result of said defamatory statements, and Plaintiff was directly damaged in his business and property in that the camera he used for his photography work was taken from him upon his arrest and not returned to him for a period of approximately 90 days.

29. As a result of said defamation, Plaintiff was damaged in an amount to be determined at trial, but in no event less than \$1 million.

**AS AND FOR A FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)**

30. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

31. Under New York law, a claim for Intentional Infliction of Emotional Distress (“IIED”) requires a showing of: (a) extreme and outrageous conduct; (b) intent to cause, or disregard of a substantial probability of causing, severe emotional distress; (c) a causal connection between the conduct and injury; and (d) severe emotional distress. See, e.g., *Rich v. Fox News Network, LLC*, 939 F.3d 112 (2d Cir. 2019) (quoting *Howell v. N.Y. Post Co., Inc.*, 81 N.Y. 2d 115, 596 N.Y.S.2d 350, 353 (1993)).

32. Here, Defendant is liable to plaintiff for IIED in that her false and outrageous accusations regarding Plaintiff to the police were intended to cause – and did cause – him to suffer severe emotional distress. Further, there was a direct causal connection between Defendant’s outrageous conduct and Plaintiff’s injury, including the severe emotional distress from which he continues to suffer. Defendant’s extreme and outrageous conduct is exemplified by her fit of rage, when she impulsively shouted at the Plaintiff to “get out” of her townhouse and loudly told him, “How dare you write about me. You know I have a book deal with Simon and Schuster, and if you try to profit off my name I will send someone to shoot you through the head. Do you understand?”

33. As a result of said IIED, Plaintiff was damaged in an amount to be determined at trial, but in no event less than \$1 million.

**AS AND FOR A FIFTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)**

34. Plaintiff repeats and realleges each and every allegation set forth in the foregoing paragraphs of this Complaint as though fully set forth herein.

35. Under New York law, “[a] cause of action to recover damages for negligent infliction of emotional distress generally requires a plaintiff to show a breach of a duty owed to

him which unreasonably endangered his physical safety, or caused him to fear for his own safety.” *Sacino v. Warwick Valley Cent. Sch. Dist.*, 138 A.D.3d 717, 719 (2d Dept. 2016). Further, it is a well-established principle under New York law that a plaintiff may plead alternative causes of action. CPLR 3014.

36. Defendant breached her duty of care to Plaintiff by, among other instances, calling the police and recklessly having Plaintiff, her employee, arrested without reasonable grounds for doing so.

37. Defendant is liable to plaintiff for Negligent Infliction of Emotional Distress (“NIED”) in that her false allegations regarding Plaintiff to the police negligently caused him to suffer severe emotional distress, endangered his physical safety, and caused him to fear for his own safety. Further, there was a direct causal connection between Defendant’s negligent conduct and Plaintiff’s injury, including his fear for his own safety and severe emotional distress from which he continues to suffer.

38. As a result of said NIED, Plaintiff was damaged in an amount to be determined at trial, but in no event less than \$1 million.

WHEREFORE, Plaintiff demands judgment against the Defendant, awarding (a) actual compensatory and punitive damages on the First through Fifth Causes of Action in an amount to be determined at trial, but in no event less than \$5 million, plus attorneys' fees and costs, and (b) for such other and further relief as this Court deems just and proper.

Dated: New York, New York
August 13, 2023

McCALLION & ASSOCIATES LLP

/s/ Kenneth F. McCallion

Kenneth F. McCallion
Attorneys for Plaintiff
100 Park Avenue – 16th Floor
New York, New York 10017
(646) 366-0884

VERIFICATION

JACOB H. BEAM affirms as follows under penalties of perjury

1. I am the Plaintiff in the above-captioned action, and am fully familiar with the facts and circumstances of this case.

2. I have read the foregoing Complaint and find its contents to be true and correct, except as to matters alleged upon information and belief, and as to those matters I believe them to be true and correct.

Dated: New York, New York
August 13, 2023

A handwritten signature in dark ink, appearing to read 'JH Beam', is written over a horizontal line.

JACOB H. BEAM