

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

MARGARITA SCIAPIN, individually,
and as parent of M.S., minor child.

CASE NO.:

Plaintiffs,
vs.

PARIS MORNING, LLC

Defendant(s).
_____ /

COMPLAINT

Plaintiff, MARGARITA SCIAPIN, individually and as parent of M.S., minor child,
by and through undersigned counsel, hereby files this Complaint against Defendant,
PARIS MORNING, LLC, and shows unto this Court as follows:

JURISDICTION, PARTIES, AND VENUE

1. This action is for damages in excess of fifty thousand dollars (\$50,000.00), excluding interest, costs, and attorney's fees, and monetary relief for tortious conduct which has resulted in lost revenue and harm to Plaintiff's business interests. Jurisdiction in this Court is therefore proper pursuant to Fla. Stat. §§ 26.012.
2. Plaintiff, MARGARITA SCIAPIN, (hereinafter referred to as "Plaintiff") is an individual residing in Palm Beach County, Florida, and is otherwise *sui juris*.
3. Plaintiff, M.S., is an individual residing in Palm Beach County, Florida and is the minor child of Plaintiff.
4. Defendant, PARIS MORNING, LLC, (hereinafter referred to as "the Defendant") is a Florida profit corporation conducting business in Palm Beach County Florida, and is otherwise *sui juris*.

5. Venue is proper in Palm Beach County pursuant to §47.011, Fla. Stat., because the acts complained of and giving rise to this action occurred in Palm Beach County, Florida.
6. All conditions precedent and necessary to bring this action have either been performed, have occurred, have been waived, or have otherwise been excused.

GENERAL ALLEGATIONS

7. At all times material hereto, the Plaintiff was a regular customer at the Defendant's bakery shop located at 22191 Powerline Road in Boca Raton, Florida.
8. On or about January 22, 2023, the Plaintiff entered the bakery and selected a particular mocha flavored cake for purchase.
9. The Defendant's employee packaged a cake and brought the box to the cash register counter, where the Plaintiff paid \$29.00 by credit card and gathered the cake to leave.
10. While still at the cash register counter, the Plaintiff looked through the clear plastic film on the cake box lid and realized that the wrong cake had been packaged by the employee.
11. The Plaintiff asked the same employee to switch the cake that she had been given with the cake she had selected to purchase.
12. The Defendant's employee stated that she could not simply switch the cakes, and proceeded to charge the Plaintiff's credit card another \$29.00 and then would refund the original \$29.00.
13. The Defendant's employee stated that this was the only way she knew how to process this transaction, and that she did not know how to put the refund on a gift card and was not allowed to simply switch the cakes.

14. The Plaintiff, leery of being charged twice, decided to keep the original cake and told the Defendant's employer not to worry and there was no need for a refund or further transactions.
15. Within two weeks, members of the community, and specifically, children at the Plaintiff's 12-year-old daughter's gymnastics club, began taunting the family, stating that the Plaintiff is a thief.
16. The Plaintiff and her family continued to hear remarks about the Plaintiff being a thief and committing robbery from people in the community, causing severe emotional distress to the Plaintiff and her minor child.
17. Finally, the Plaintiff discovered alarming photographs of two posters with a recent photograph of the Plaintiff and a receipt showing the Plaintiff's full name, all hanging in the window of the Defendant's shop near the check out register.
18. The posters and the receipt were directly in front of the credit card machine where every customer completed their transactions. *See posters and receipt, attached hereto as Exhibit A.*
19. The first poster had been photoshopped to include a recent color photograph of the Plaintiff that had been taken off of her social media account, underneath large bolded letters that said "Thief." The poster continued,"

"This Karen thief stole a cake from us at 5pm on 1/22/23. When an employee tried to explain that our refunds don't show up in statements immediately, she got angry, refused to believe the employee, took the cake, and left while her cake was already refunded. She was very impatient when the employee was trying to figure out how to do a refund receipt, instead of waiting, she ran off with the cake."

20. The second poster contained a second photograph of the Plaintiff with “CAKE THIEF!!” written across it and angry faces scribbled at the bottom.
21. The receipt also contained the words “CAKE THIEF” and showed the Plaintiff’s full name and some of her credit card information.
22. The Plaintiff, now being aware of where the rumors had originated, became in such a state of stress and anxiety that she was hospitalized for shortness of breath and rapid heart rate the following day.
23. The Plaintiff reached out to the Defendant and spoke to the manager of the store about the posters and the receipt.
24. The Defendant’s manager laughed at the Plaintiff’s distress, stating that the cake had been refunded and that he had gotten the photographs from the Plaintiff’s social media account and that she couldn’t make him take it down.
25. The Plaintiff reviewed her credit card statement from that month and saw that the Defendant’s employee had processed a refund, even though the Plaintiff had decided to keep the original cake that she had paid for, even though it wasn’t the one she had picked out.
26. The Plaintiff, distraught from the shock and embarrassment she had suffered, provided a friend with her credit card to go to the bakery and pay another \$29.00, in hopes that the Defendant would remove the posters and the receipt.
27. It is unknown when, if at all, that the Defendant removed the defamatory materials from the shop window.
28. The Plaintiff and her family are known in the community, and own a family business in the jewelry industry.

29. The Defendant and/or the Defendant's agents/employees caused the defamatory statements about the Plaintiff and the alleged debt to be disclosed, communicated, transmitted, and otherwise transferred to other individuals regarding an invalid debt against the Plaintiff.
30. These defamatory statements made about the Plaintiff and alleging that she is a thief guilty of larceny have caused damage to the Plaintiff's reputation in the community as well as compensatory damages.

COUNT I – DEFAMATION PER SE, VICARIOUS LIABILITY
(as to Margarita Sciapin)

31. Plaintiff adopts and re-alleges Paragraphs 1-30 as though fully incorporated herein.
32. This is an action for damages for defamation per se, on its face and by innuendo, regarding the statements published and disseminated by the Defendant's employees about the Plaintiff.
33. At all times material hereto, the Defendant has acted by and through its agents, managers, and/or employees within the course and scope of their employment in furtherance of the Defendant's business.
34. The acts of the Defendant's employees were contrary to law and the Defendant knew or should have known that the Defendant's employees' acts and omissions occurred within their scope of employment.
35. The Defendant had knowledge and the right to control the activities of the Defendant's employees, but the Defendant failed to take action against such unlawful acts.
36. The Defendant, vicariously through its agents/employees, disseminated defamatory statements on posters put in the shop windows, which were viewable to the community

and were knowingly false and defamatory as to the Plaintiff's character, causing damages to the Plaintiff and her minor child.

37. The Defendant, through its agents/employees, allowed the publication of false and defamatory written statements about the Plaintiff, framing her as a thief to be knowingly and purposely published by the Defendant's employees in its shop window for the public to see.

38. The posters claimed that the Plaintiff was a "cake thief" and had stolen baked goods from the shop, and listed her full name and a recent photograph of her that was copied from her social media account.

39. Statements against the Plaintiff made by or on behalf of the Defendant's employees were widely circulated on posters in the shop windows next to the cash register such that the content was therefore communicated to every customer and those within the community where the Plaintiff lives. *See Exhibit A.*

40. The Defendant, through its agents/employees, made statements about the Plaintiff in the posters that were untrue and conveyed false impressions of the Plaintiff to the communities, portraying the Plaintiff as dishonest and a thief, which impressions are false.

41. The Defendant, through its agents/employees, made the posters about the Plaintiff, some of which are set forth above, with a knowledge of such falsity, with a reckless disregard as to such falsity, and/or with negligence in connection with such falsity.

42. The Defendant, through its agents/employees, made these defamatory statements with malice in an attempt to injure the Plaintiff and her reputation in the community.

43. As a direct and proximate result of the false statements made about the Plaintiff by the Defendant's agents/employees, the Plaintiff has suffered damage to her reputation, embarrassment, and outrage, and has suffered compensatory damages, which damages have occurred in the past, are occurring in the present, and will continue to occur in the future.

WHEREFORE, Plaintiff, MARGARITA SCIAPIN, demands judgment against Defendant, PARIS MORNING, LLC, for damages, including costs and interest, attorney's fees, and such other and further relief as may be just and proper. The Plaintiff reserves the right to amend this Count in accordance with Florida Statute Section 768.72 to assert a claim for punitive damages.

**COUNT II – FCCPA VIOLATIONS PURSUANT TO
FLORIDA STATUTE SECTION 559.72(3)
(as to Margarita Sciapin)**

44. Plaintiff adopts and re-alleges Paragraphs 1-30 as though fully incorporated herein.

45. The Defendant committed various violations of the Florida Consumer Collection Practices Act (FCCPA) in connection with debt collection as prohibited by Florida Statutes. *See Fla. Stat. § 559.72*. As stated above, in making its determination the Court must view the complaint in the light most favorable to the Plaintiff. *See Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009). In addition, various violations of the FDCPA were committed named Defendants in this complaint as shown above--those provisions of the FDCPA that are more protective of the consumer than provisions of the FCCPA are incorporated into Florida law by Florida statute which provides that, "in the event of any inconsistency between any provision of this part and any provision of the Federal Act, the provision which is more protective of the consumer or debtor shall prevail." *See Fla. Stat. § 559.552* (2011). More particularly, with regard to violations of the

FCCPA alone, the Defendant's actions are violative of the following subsections of the said statute: § 559.72(3), § 559.72(5), and § 559.72(6).

46. The Defendant intentionally disclosed and/or allowed to be disclosed information concerning the Plaintiff's creditworthiness to improper third parties without the Plaintiff's consent in violation of the FCCPA. *See Fla. Stat. § 559.72(9)*. Specifically, without Plaintiff's consent, the Defendant and/or the Defendant's agents/employees created and hung posters in the shop that contained the Plaintiff's photograph and name in connection to an erroneous outstanding alleged debt of Plaintiff's in relation to a refunded cake.
47. The Defendant's dissemination of false information is unlawful pursuant to the FCCPA. As a result of the Defendant's conduct, the Defendant in turn improperly and unlawfully disseminated this inaccurate information to one or more third parties resulting in damage to the Plaintiff.
48. The Defendant, despite having prior knowledge that the debt it was attempting to collect was the mistake of the Defendant's own employees, the Defendant proceeded to willfully communicate and/or caused others to communicate defamatory statements against the Plaintiff.
49. As a result of the above violations of the FCCPA, the Defendant is liable to the Plaintiff for actual damages and statutory damages per named Defendant found liable, together with attorney's fees and all costs of Plaintiff's representation.

WHEREFORE, the Plaintiff, MARGARITA SCIAPIN, respectfully requests this Court to enter judgment against the Defendant, PARIS MORNING, LLC, for actual damages, statutory

damages pursuant to Fla. Stat. § 559.77(2), reasonable attorneys' fees pursuant to Fla. Stat. § 559.77(2), and such other and further relief as the Court may deem to be just and proper.

COUNT III – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(as to Margarita Sciapin)

50. Plaintiff adopts and re-alleges Paragraphs 1-30 as though fully incorporated herein.
51. At all times material hereto, the Defendant has acted by and through its agents, managers, and/or employees within the course and scope of their employment in furtherance of the Defendant's business.
52. The acts of the Defendant's employees were contrary to law and the Defendant knew or should have known that the Defendant's employees' acts and omissions occurred within their scope of employment.
53. The Defendant had knowledge and the right to control the activities of the Defendant's employees, but the Defendant failed to take action against such unlawful acts.
54. The Defendant, through its agents/employees, set out to deliberately and recklessly injure the Plaintiff by creating and hanging the defamatory posters as more fully described in paragraphs 1-29.
55. The Defendant, through its agents/employees, sought to publicly humiliate the Plaintiff by posting the photos of the Plaintiff in the shop and branding her as a thief.
56. The Defendant, through its agents/employees, displayed conduct that was intentional and reckless. The Defendant's conduct was outrageous in character and went beyond all possible bounds of decency.
57. The Defendant, through its agents/employees, caused the Plaintiff and her minor child to suffer severe emotional distress.

WHEREFORE, Plaintiff, MARGARITA SCIAPIN, demands judgment against the Defendant, PARIS MORNING, LLC, for damages, including costs, interest, and any additional relief the Court deems necessary and proper. The Plaintiff reserves the right to amend this Count in accordance with Florida Statute Section 768.72 to assert a claim for punitive damages.

COUNT IV – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(as to M.S.)

58. Plaintiff adopts and re-alleges Paragraphs 1-30 as though fully incorporated herein.
59. At all times material hereto, the Defendant has acted by and through its agents, managers, and/or employees within the course and scope of their employment in furtherance of the Defendant's business.
60. The acts of the Defendant's employees were contrary to law and the Defendant knew or should have known that the Defendant's employees' acts and omissions occurred within their scope of employment.
61. The Defendant had knowledge and the right to control the activities of the Defendant's employees, but the Defendant failed to take action against such unlawful acts.
62. The Defendant, through its agents/employees, set out to recklessly and wantonly injure M.S. and the Plaintiff's family by creating and hanging the defamatory posters of M.S.'s mother as more fully described in paragraphs 1-29.
63. The Defendant, through its agents/employees, sought to publicly humiliate the Plaintiff and her family, including M.S., by posting the photos of the Plaintiff in the shop and branding her as a thief.
64. The Defendant, through its agents/employees, displayed conduct that was reckless and wanton. The Defendant's conduct was outrageous in character and went beyond all possible bounds of decency.

65. The Defendant, through its agents/employees, caused the Plaintiff and her minor child to suffer severe emotional distress.

WHEREFORE, Plaintiff, M.S., demands judgment against the Defendant, PARIS MORNING, LLC, for damages, including costs, interest, and any additional relief the Court deems necessary and proper. The Plaintiff reserves the right to amend this Count in accordance with Florida Statute Section 768.72 to assert a claim for punitive damages.

DEMAND FOR JURY TRIAL

The Plaintiff demands a jury trial on all issues so triable.

Respectfully submitted,

SWEETAPPLE, BROEKER & VARKAS, PL
Counsel for Margarita Sciapin
4800 N. Federal Highway, Suite D306
Boca Raton, Florida 33431
Telephone: (561) 392-1230
E-Mail:pleadings@sweetapplelaw.com

By: /S/Robert A. Sweetapple
ROBERT A. SWEETAPPLE
Florida Bar No. 296988

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, a true and correct copy of the foregoing has been furnished via email through the E-Filing Portal on this 1st day of August, 2023, and is to be served upon the Defendant.

By: /S/Robert A. Sweetapple
ROBERT A. SWEETAPPLE
Florida Bar No. 296988

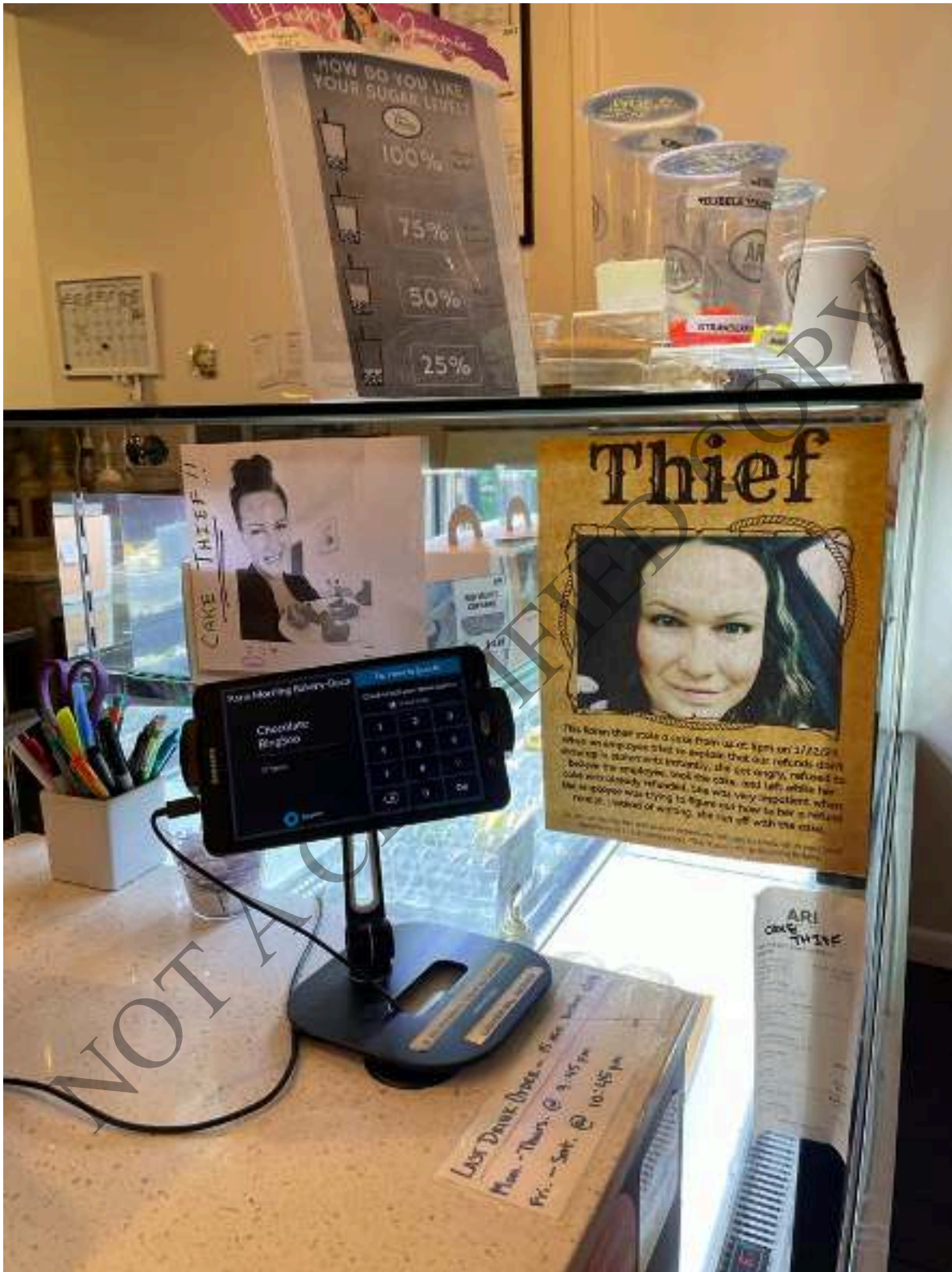


Exhibit A