

FILED

IN THE FIFTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

AT NASHVILLE

2016 DEC 21 PM 3:28

JOSHUA CONWAY,

Plaintiff,

RICHARD D. COO-DR. CLERK

CR

DC

v.

DOCKET NO. 16C-664

12 PERSON JURY DEMAND

KUMARI S. FULBRIGHT, and
KUMARI FULBRIGHT, INC.,

Defendants

**AMENDED ANSWER OF DEFENDANTS, KUMARI
S. FULBRIGHT AND KUMARI FULBRIGHT, INC.**

COME NOW the defendants, Kumari S. Fulbright (hereinafter "Fulbright") and Kumari Fulbright, Inc. (hereinafter "the Corporation"), and file this First Amended Answer to the Complaint filed against them. These defendants would show unto this Court as follows:

1. The defendants deny the hyperbolic allegations contained herein. Admitted that defendant Fulbright was, at one time, a resident of Arizona, and competed in beauty pageants. Admitted that Robert Ergonis and defendant Fulbright were engaged. Denied that Fulbright conspired to commit kidnapping. Admitted that the sum total of the allegations contained in Paragraph 1 of the Complaint was made against Fulbright in an Arizona Criminal Court proceeding.

2. Paragraph 2 requires no response from the defendants, as it is the substance of a quotation and is not offered for the truth of the matter. However, the defendants deny the substance of the quotation.

3. Admitted.

4. Defendants are without sufficient knowledge or information to form a belief as to the truth of the averments contained in Paragraph 4 and, therefore, the same are denied, and strict proof thereof demanded. Denied that Fulbright subjected the plaintiff to a near death experience.

5. The hyperbolic allegations contained in Paragraph 5 of the Complaint are denied. Admitted that Fulbright appeared on a television program called "One Bad Choice." Admitted that the program was sold to Music Television (MTV). Denied that Fulbright fabricated a version of the facts. Denied that Fulbright acted with any malice towards plaintiff. Denied that any actions undertaken by Fulbright were libelous and/or defamatory. The remaining allegations are generally denied.

6. Defendants are unaware of the truth of the matter asserted in Paragraph 6. As such, they are denied, only because of the lack of knowledge.

7. Admitted that the Corporation is a Florida For-Profit Corporation. Fulbright's address is incorrect.

8. Admitted that Fulbright was a criminal defendant in the case set forth in Paragraph 8 of the Complaint. Admitted that Fulbright plead guilty in that matter. Admitted that Fulbright appeared on "One Bad Choice." It is unknown where the program is available for viewing.

9. Admitted, pursuant to the Agreed Order entered on July 12, 2016.

10. Admitted, pursuant to the Agreed Order entered on July 12, 2016.

11. Defendants re-allege their responses to the same allegations contained in Paragraph 1. Admitted that Robert Ergonis is serving a prison sentence. It

is unknown how long the prison sentence runs.

12. Defendant admits that plaintiff was invited to her home on December 8, 2007. Admitted that Plaintiff was held against his will by three men and tied up. Fulbright specifically denies that she tortured the plaintiff. Fulbright specifically denies that she was involved in tying plaintiff up. Further, the defendants move to strike this allegation, as it is no longer material to this litigation, pursuant to the Agreed Order dismissing certain causes of action, and, these allegations are irrelevant, impertinent, scurrilous, and calculated to embarrass and harass.

13. Admitted that the summary contained in Paragraph 13 is a recounting of what was said in the proceeding, as a summary. The remaining transcript makes it abundantly clear that Fulbright was taking a best interests plea. The Judge in the matter could not take the plea unless Fulbright concurred with the recitation of the facts. Defendant Fulbright disagreed on several occasions with the recitation, to which the Judge reminded her that he could not accept the plea without an acknowledgement from Fulbright. Further, the defendants move to strike this allegation, as it is no longer material to this litigation, pursuant to the Agreed Order dismissing certain causes of action, and, these allegations are irrelevant, impertinent, scurrilous, and calculated to embarrass and harass.

14. Admitted that the substance of the allegations contained in Paragraph 14 appear in the transcript. Fulbright took a best interests plea in the matter, and admitted to guilt in order to bring closure to the matter. Furthermore, the defendants move to strike this allegation as it is no longer material to this litigation, pursuant to the Agreed Order dismissing certain causes of action, and, these allegations are irrelevant, impertinent, scurrilous, and calculated to embarrass and harass.

15. The statement is admitted. The remaining hyperbolic allegations are denied.

16. Denied as stated. It is admitted that the defendant Fulbright plead guilty to two felony offenses. It is admitted that defendant Fulbright served two years in prison, and it is admitted that defendant Fulbright was ordered to pay restitution. The remaining hyperbolic allegations are denied.

17. This paragraph requires no response from defendants, as it is a recitation of a Prosecutor's statement. Further, the defendants move to strike this allegation, as it is irrelevant, impertinent, scurrilous, and calculated to embarrass and harass. It is not a statement of fact, and its inclusion in this Complaint is improper and unduly prejudices the defendants.

18. Admitted that Fulbright believed plaintiff to had stolen jewelry from her. Defendants specifically deny that the defendant Fulbright gave any false and/or defamatory claims. All of the statements made by the defendant Fulbright were true.

19. Denied.

20. Denied.

21. Denied.

22. Defendants are without information or knowledge sufficient to either admit or deny this allegation and, therefore, deny the same and strict proof is demanded thereof. It is denied that defendant Fulbright ever stood trial, and it is denied that it was ever "conclusively established" that Ms. Fulbright asked Mr. Conway to pawn her jewelry. Ms. Fulbright has stated under oath that she believed, and continues to believe, that Josh Conway stole her jewelry.

23. Admitted that the pawn shop owner testified regarding the alleged phone call. Denied that the pawn shop owner was correct in his testimony.

24. Admitted that no police report was filed.

25. Admitted that no insurance claim was filed. The insurance policy on the jewelry was lapsed.

26. Denied.

27. Denied.

28. Denied. Furthermore, the defendants move to strike this allegation, as it is irrelevant, impertinent, scurrilous, and calculated to embarrass and harass. It is not a statement of fact, and its inclusion in this Complaint is improper and unduly prejudices the defendants.

29. The defendants are without sufficient information or knowledge to either admit or deny the quoted portions of this allegation; therefore the same are denied and strict proof thereof demanded. Defendants further aver that all such statements are taken out of context and move this Court for more definite statement, requiring plaintiff to attribute each quoted statement to a specific witness and/or other person at such trial. In all other respects, the allegations contained in this paragraph are denied.

30. Admitted that the statements were made. The matters are taken out of context and reframed to distort the substance of the statements.

31. This paragraph requires no response from defendants, as it is a recitation of an adverse attorney's statement. Furthermore, the defendants move to strike this allegation, as it is irrelevant, impertinent, scurrilous, and calculated to embarrass and harass. It is not a statement of fact, and its inclusion in this Complaint is improper and unduly prejudices the defendants.

32. Admitted that defendant Fulbright appeared on a television program, the subject of which was the incident described herein.

33. Admitted that defendant Fulbright appeared on a television program entitled "One Bad Choice." These defendants are unaware how many viewers watched the program. These defendants are unaware where the program can be viewed. Defendants demand strict proof thereof.

34. Defendants are without information or knowledge necessary to allow them to admit or deny the substance of the allegations contained in Paragraph 34; therefore, the same are denied, and strict proof thereof demanded.

35. Defendants are without knowledge or information necessary to allow them to admit or deny the substance of the allegations contained in Paragraph 35; therefore the same are denied and strict proof thereof demanded. Defendants admit that a transcript is attached, but cannot speak to its' completeness or accuracy.

36. The hyperbolic allegations contained in Paragraph 36 are denied. Admitted the defendant Fulbright appeared on the television program and recounted the accusations.

37. Admitted.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. This paragraph requires no response. To the extent a response is required, the averments are denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. This paragraph requires no response. To the extent a response is required, the averments are denied.

49. Denied.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. This paragraph requires no response. To the extent a response is required, the averments are denied.

57. Denied. Pursuant to Tennessee Rule of Civil Procedure 12.02(6), the Complaint fails to state a claim upon which relief may be granted. The Tennessee Consumer Protection Act only applies to the sale of goods and/or services. There are no allegations in the Complaint alleging that the defendant, Kumari Fulbright, or defendant, Kumari Fulbright, Inc., sold a good or service, as those are defined with the Tennessee Consumer Protection Act. Therefore, this cause of action should be dismissed.

58. Denied. The Complaint fails to state a claim upon which relief may be granted pursuant to Tennessee Rule of Civil Procedure 12.02(6), specifically, the Tennessee Consumer Protection Act only applies to the sale of goods and/or services. There are no allegations in the Complaint alleging that the defendant, Kumari Fulbright, or defendant, Kumari Fulbright, Inc., sold a good or service, as those are defined with the Tennessee Consumer Protection Act and, therefore, this cause of action should be dismissed.

59. This paragraph requires no response. To the extent a response is required, the averments are denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. This paragraph requires no response. To the extent a response is required, the averments are denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

The remaining Paragraphs 71 through 80 of Plaintiff's Complaint have been stricken, pursuant to an Agreed Order of this Court entered on July 12, 2016 and, therefore, no response is necessary.

AFFIRMATIVE DEFENSES

FAILURE TO STATE A CLAIM

1. Plaintiff has failed to state a claim upon which relief can be granted. Therefore, this matter should be dismissed with prejudice.

TRUTH

2. Defendant, affirmatively assert that all statements and comments by defendants about plaintiff were true and, thus, cannot be the basis for a defamation action.

LACK OF DAMAGE CAUSED BY THE DEFENDANTS

3. No act or omission on the part of the defendants either caused or contributed to the alleged injury, if any, the plaintiff may have sustained.

FAILURE TO MITIGATE DAMAGES

4. Plaintiff has failed properly mitigate his damages, specifically, by drawing further public attention. Plaintiff, Joshua Conway, appeared on Fox 17, on or about March 19, 2016, for a segment entitled "Boyfriend Speaks Out After He was Kidnapped by Beauty Queen."

SUBSTANTIAL TRUTH

5. Plaintiff's claim is barred under the Substantial Truth Doctrine.

PLAINTIFF IS PUBLIC FIGURE

6. Plaintiff has placed himself and/or has been placed in the public eye and is, therefore, a limited purpose public figure. For the purposes of this litigation, specifically, plaintiff has taken steps to place himself in this controversy further in the public eye, by appearing on Fox 17, on or about March 19, 2016, in a segment entitled "Boyfriend Speaks Out After He was Kidnapped by Beauty Queen."

NO PROVABLE FALSE ASSERTIONS OF FACT

7. The defendants' statements are not properly subject to a defamation suit, because they contained no provably false assertions of fact.

COMPARATIVE FAULT OF MUSIC TELEVISION CORPORATION

8. The Doctrine of Modified Comparative Fault applies in this action. Therefore, so as not to waive the opportunity to aver the same, should proof in this matter show that any act or omission on the part of Music Television, its agents, assigns, subsidiaries and/or any entity performing work on One Bad Choice through a subcontract with MTV (collectively referred to

as “MTV”) which constitutes fault, the Doctrine of Modified Comparative Fault should apply, thereby reducing by the percentage of fault attributable to the defendants, Kumari Fulbright and Kumari Fulbright, Incorporated, and reduce accordingly any recovery on the part of the plaintiff. Based on information and belief, MTV may be served for process at Corporation Service Company, 2908 Poston Ave, Nashville, TN 37203. Based on information and belief, its principle place of business is 1515 Broadway, New York, NY, 10036-8901.

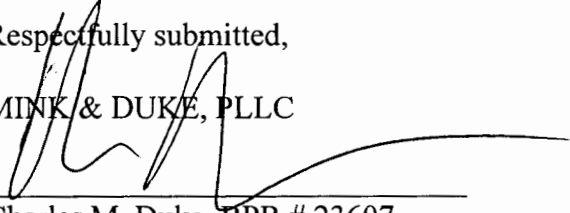
COMPARATIVE FAULT OF PLAINTIFF, JOSHUA CONWAY

9. The Doctrine of Modified Comparative Fault applies in this action. Therefore, so as not to waive the opportunity to aver the same, should proof in this matter show that any act or omission on the part of Joshua Conway, which constitutes fault, the Doctrine of Modified Comparative Fault should apply, thereby reducing by the percentage of fault attributable to the defendants, Kumari Fulbright and Kumari Fulbright, Incorporated and reduce accordingly any recovery on the part of the plaintiff.

WHEREFORE, Defendants Kumari S. Fulbright and Kumari Fulbright, Inc., pray this action be dismissed and costs and attorney’s fees be awarded against the plaintiff. Further, all such other relief as this Court deems appropriate.

Respectfully submitted,

MINK & DUKE, PLLC



Charles M. Duke, BPR # 23607
William M. Leech, III, BPR # 30515
P.O. Box 198742
Nashville, Tennessee 37219-8742
Phone: (615) 256-0138
Fax: (615) 730-5997
mduke@minkdukelaw.com
wleech@minkdukelaw.com

Attorneys for Defendants

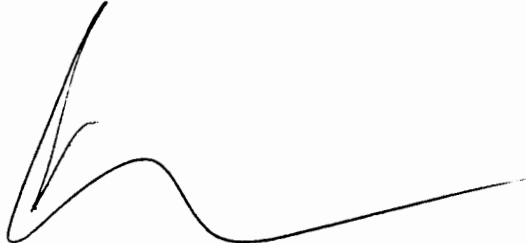
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via electronic mail and U.S. Mail to:

Daniel A. Horwitz
Attorney at Law
1803 Broadway, Suite 531
Nashville, Tennessee 37203
Daniel.a.horwitz@gmail.com

John W. Roberts
Law Offices of John W. Roberts, PLLC
1720 West End Avenue, Suite 530
Nashville, Tennessee 37203
john@johnrobertslaw.com

On this the 21st day of December, 2016.



Charles M. Duke
William M. Leech, III