

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

[REDACTED]

Plaintiff,

vs.

CIVIL ACTION NO.

4:15- [REDACTED]

MIKE RIBEIRO and TAMARA WILLIAMS,

Defendants.

PLAINTIFF'S FIRST AMENDED COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff [REDACTED] files this First Amended Complaint¹ and asserts the following allegations and claims against Defendants MIKE RIBEIRO and TAMARA WILLIAMS (collectively "the Ribeiros") and prays for her damages as follows:

I.
PARTIES

1. Plaintiff [REDACTED] is a resident of Collin County, Texas. She is only being named by her initials in this lawsuit, as is customary for the victims of sexual assault.
2. Defendant **Mike Ribeiro** ("Mike") is a resident of Nashville, Tennessee, who has appeared and answered herein and is before the Court for all purposes.

¹ This First Amended Complaint is being filed pursuant to the Court's June 1, 2015 Order to replead (Docket #32).

3. Defendant **Tamara Williams** (“Tamara”) is the wife of Defendant Mike Ribeiro and a resident of Nashville, Tennessee. Tamara has appeared and answered herein and is before the Court for all purposes.

II.
VENUE AND JURISDICTION

4. Pursuant to TEXAS CIVIL PRACTICE & REMEDIES CODE § 15.002(a)(2), venue was proper in Collin County because Defendants were residents of Collin County at the time the cause of action accrued. The Collin County District Court had jurisdiction because the amount in controversy exceeds the minimum jurisdictional amounts of the Court.
5. Nevertheless, Defendants removed this case to the United States District Court on diversity grounds since they moved to Tennessee prior to this lawsuit being filed. Therefore this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a).

III.
FACTUAL BACKGROUND

6. This case arose when Mike Ribeiro sexually assaulted the young woman watching his children.
7. The young woman, [REDACTED] came to work for the Ribeiros as a babysitter when she was twelve years old. [REDACTED]’s family and the Ribeiros lived in the same Collin County suburb. She responded to a neighborhood e-mail sent by Tamara looking for a babysitter for the Ribeiros’ small children. Since [REDACTED] was the only one who responded, she got the job.
8. Mike acted strangely toward [REDACTED] throughout all of the years she babysat the children. For example, she saw him staring at her with his hands down his pants many times when

she was in the living room playing games with the kids while Mike was in the same room watching television.

9. Mike also found ways to touch [REDACTED] backside by purposely walking behind her while she was doing dishes in the kitchen.
10. On several occasions, Mike had his hands down his pants when he would drive [REDACTED] home after she spent the day with the children.
11. Sometime around 2009 or 2010, [REDACTED] told Mike's wife Tamara there was a problem because Mike grabbed [REDACTED]'s leg when he was driving her home. They were riding in a 2-door sedan at the time. [REDACTED] pressed herself tightly up against the passenger side door trying to get away from him.
12. By 2011 or 2012, these events led Tamara and [REDACTED] to agree that Mike would never be alone with [REDACTED] again. However, Tamara now denies [REDACTED] ever told her about the problem.
13. Mike and Tamara divorced in late 2011. After the divorce, [REDACTED] was not supposed to watch the kids at Mike's house, but there were times when Mike would call Tamara at the last minute after a male sitter failed to show up and Tamara would ask [REDACTED] to babysit.
14. Mike and Tamara remarried in 2012. That same year, the sports team Mike worked for traded him to Washington DC. The Ribeiros had a going away party at their home in June. At the party several men made comments to Mike asking how could he have such a hot nanny and not sleep with her. They made the comments in front of [REDACTED] and it

made her extremely uncomfortable. Tamara was present when some of these derogatory comments were made.

15. Mike tried to get [REDACTED] alone at the party; it made her so uncomfortable that she asked other attendees to walk her to her car. Those people tried to tell Tamara about the situation, but Tamara was not inclined to listen.
16. In August 2012, Tamara asked [REDACTED] to come to Washington with them to help them settle into their new home. [REDACTED] was supposed to stay for two weeks. At this point the Ribeiro children were in 1st grade, 2nd grade and 5th grade and [REDACTED] had just turned eighteen.
17. Once they moved into the house in McLean, Virginia, [REDACTED] stayed in a downstairs bedroom. A few days before [REDACTED] was scheduled to leave, Mike and Tamara went out with some of Mike's teammates. When they came home, Mike went down to the basement where [REDACTED] was sleeping with the kids. The kids usually slept in their own rooms, but that particular night the two youngest slept with [REDACTED] since she was leaving soon and Mike and Tamara were not home.
18. [REDACTED] woke up with Mike's hands all over her. She did not move. She tried to say something but nothing would come out. Mike saw [REDACTED] was awake, but he did not stop. [REDACTED] mustered her voice and told him he needed to leave.
19. She did not scream because she did not want to wake the children who were in the bed right next to her. Mike was fully clothed and wearing a suit. His hand was on her breasts and he was pleasuring himself at the same time.

20. Mike left and [REDACTED] heard Tamara at the top of the basement stairs talking on the phone in the kitchen. She wrapped the kids up in a comforter. Then, she wrapped up in a blanket and laid down at the foot of the bed between the kids and the door. [REDACTED] finally fell back asleep.
21. Mike came back sometime later— this time just in his underwear. [REDACTED] woke up with Mike forcing his hand down her panties. She grabbed at the blanket and started saying: “What are you doing?!?” He took his other hand that had been down his underwear and put it over her mouth and held [REDACTED] down, intentionally and wilfully restraining her against her will and without her consent. [REDACTED] could not exercise her will to leave due to the force and threat of force from Mike.
22. Having restrained [REDACTED] against her will, Mike then sexually assaulted [REDACTED] by shoving his fingers inside her vagina.
23. [REDACTED] said he needed to leave and not come back.
24. About 15 to 20 minutes later, Mike came back downstairs to the bedroom door a third time. Tamara was still on the phone in the kitchen. He claimed that he was looking for his oldest child, [REDACTED] [REDACTED] told him if he came back in the room, she would scream, wake everyone up and get the attention of his wife. This time, Mike left for good.
25. That same morning, [REDACTED] called Tamara’s cousin, Jennifer (who had been in D.C. with the family, but had left before the assault). Jennifer told [REDACTED] to tell Tamara what happened. When [REDACTED] told Tamara, Tamara said: “This is not your fault, this is

something he did.” She then sent [REDACTED] downstairs to be with the kids while Tamara went upstairs to confront Mike.

26. Tamara talked to Mike and then sent Mike down to talk to [REDACTED]. Mike begged [REDACTED] not to leave. Mike tried to blame his actions on drinking too much and also admitted that he did not doubt [REDACTED]’s account of the events. Mike told [REDACTED] that if she left, Tamara would divorce him and take the kids.

27. Later, Tamara told [REDACTED] they should be glad this happened to [REDACTED] and not someone else because she understood the family dynamic. Tamara begged [REDACTED] not to tell anyone else— not to tell her parents or the cops.

28. After [REDACTED] returned home, Tamara called frequently. Tamara told [REDACTED] that she was going to group therapy with women who were married to sex addicts. [REDACTED] also called Tamara because Tamara did not want her talking to anyone else about what happened.

29. Mike and Tamara came back to Texas for New Year’s Eve party in 2012. [REDACTED] attended the party because she was told that Mike would not be attending. However, Mike was there and his presence had a visible effect on [REDACTED]’s demeanor. Tamara saw [REDACTED]’s distress at the party. She said Mike was making strides and hoped to be able to apologize so that they could all move forward. Tamara did not like that [REDACTED] was upset by Mike’s presence at the party.

30. Tamara knew that [REDACTED] had been abused by her brother for a long time when she was little. At the New Years Eve party, Tamara told [REDACTED] that what Mike did was not as bad as what [REDACTED]’s brother did, so she should just “get over it”.

31. Later, Tamara continued to pursue a vendetta against [REDACTED] using [REDACTED] 's past as a weapon. Tamara contacted [REDACTED] 's brother via Facebook and asked him for details about the prior abuse.
32. Tamara has since made defamatory and untrue statements to others about [REDACTED]. Specifically, Tamara used a friend to contact the family [REDACTED] was a nanny for as well as other babysitting clients. The message Tamara had conveyed was meant to convince [REDACTED] s clients to stop using [REDACTED] for child care. They were warned that they needed to watch out for [REDACTED] because they could be next – implicating that [REDACTED] s claims are merely an attempt to extort money from the Ribeiros.
33. The message Tamara sent has caused injury to [REDACTED] s reputation and caused [REDACTED] mental anguish over having this personal information provided to the families she works for and being accused of attempting to extort money.
34. [REDACTED] continues to work through the damage caused by Mike's sexual assault and the Ribeiros' conduct following the assault. She has sought mental health treatment since Mike abused her, and her therapist has diagnosed her with post traumatic stress disorder (PTSD).
35. Mike and Tamara are still legally married even though they filed for divorce a second time in 2013.

IV.

CAUSES OF ACTION AND CLAIMS FOR RELIEF AGAINST MIKE RIBEIRO

A. **Count One: Assault / Offensive Physical Contact.**

36. Plaintiff incorporates the above paragraphs by reference.

37. In support of her claim for assault, Plaintiff would show that Mike acted intentionally and knowingly when he physically assaulted her in the basement bedroom. He knew that she did not want to be touched, and he touched her anyways without her consent. He put his hands on her breasts, her mouth, and into her body.

38. When he did so, he knew or reasonably should have believed that [REDACTED] would regard the contact as offensive or provocative. Not only did [REDACTED] indicate her desire for him not to touch her in any way with words, she also indicated the same with her body language. Moreover, [REDACTED] s response to his previous attempts to touch her in the car and at the going away party made Mike very aware that [REDACTED] did not want Mike to touch her.

39. Mike ignored [REDACTED] s repeated attempts to stop him from assaulting her and did so anyways. Mike committed assault and sexual assault by intentionally, knowingly, or recklessly causing bodily injury to [REDACTED] under TEXAS PENAL CODE § 22.01(a)(1), and by intentionally or knowingly causing penetration of the female sexual organ of [REDACTED] by any means and without [REDACTED] s consent under TEXAS PENAL CODE § 22.011(1)(A).

40. This assault proximately caused [REDACTED] significant damage, including but not limited to, extreme emotional and mental harm in the form of post traumatic stress disorder.

B. Count Two: False Imprisonment.

41. Plaintiff incorporates the above paragraphs by reference.

42. [REDACTED] was an eighteen year old girl at the time of Mike's unwanted sexual contact. Mike intentionally and knowingly detained [REDACTED] and prevented her from moving from where she was on the bed. [REDACTED] did not consent to being detained.

43. [REDACTED] clearly told Mike to stop and not to touch her but he ignored her protests. He not only touched her body against her wishes, but he covered her mouth with the same hand he had been using to pleasure himself. This prevented her from being able to get away from him. While he restrained her, Mike forced his hand beneath [REDACTED] s clothing and put his fingers into her body. All of this took place with his children in the room and Mike knew that making his advances with the children sleeping would also restrain [REDACTED]
44. At no time did Mike have a legal justification for detaining [REDACTED]. Instead, he detained her and prevented her from moving so that he could sexually assault her against her will. He also did not have authority to detain [REDACTED] in the basement bedroom and did so only so that he could sexually assault her.
45. Mike's actions proximately caused [REDACTED] significant damage, including but not limited to, physical injury, humiliation, shame, fright, and mental anguish.

C. Count Three: Exemplary Damages.

46. Plaintiff incorporates the above paragraphs by reference.
47. Plaintiff avers that the conduct of Mike Ribeiro, cited above, was outrageous, malicious, or otherwise morally culpable for which punitive damages must justly be awarded.
48. For this outrageous, malicious or otherwise morally culpable conduct, Plaintiff specifically pleads for the recovery of exemplary damages as set forth herein, as provided for under TEX. CIV. PRAC. & REM. CODE §41.001(5).
49. Defendant's actions were done with the specific intent to cause substantial injury or harm to [REDACTED]. As such, those actions give rise to an award of exemplary or punitive

damages. Further, there is no limitation or cap on the recovery of exemplary or punitive damages against Defendant as TEXAS CIVIL PRACTICE & REMEDIES CODE § 41.008(c) does not apply to a cause against a defendant from whom a plaintiff seeks recovery of exemplary damages based on conduct described as a felony in § 22.011 of the TEXAS PENAL CODE.

V.

CAUSES OF ACTION AND CLAIMS FOR RELIEF AGAINST TAMARA WILLIAMS

A. **Count One: Negligence.**

50. Plaintiff incorporates the above paragraphs by reference.

51. Tamara owed [REDACTED] a duty not to injure [REDACTED] through contemporaneous negligent activity. Her duty included a duty to provide necessary supervision. Tamara was expected to act as a reasonably prudent person and employer would in similar circumstances.

52. Tamara knew that Mike had assaulted [REDACTED] in his car while driving her home from babysitting. She also knew that Mike had made unwanted physical advances and contact with other females prior to his assault of [REDACTED]. Tamara was so aware of the threat of sexual and physical assault that Mike posed to [REDACTED] that she agreed that [REDACTED] should never be alone with Mike.

53. On the night of the assault, Tamara was in the kitchen at the top of the stairs that led down to the basement. She had been out with Mike that evening and knew that he had been drinking alcohol. Mike went down the stairs to the basement from the kitchen where Tamara was speaking on the phone three times. Two of those times, he was only partially clothed with underwear. Tamara knew or should have known that [REDACTED] was

down in the basement room sleeping because that was the room provided to [REDACTED] for the duration of her stay.

54. Tamara knew or should have known that Mike would sexually assault [REDACTED] and that he was intending on doing so when he progressed down the basement stairs in only his underwear.

55. Even so, Tamara did nothing to stop Mike or take any steps to make the home safe for [REDACTED]. Instead, she talked on her phone in the kitchen and ignored that her husband went down the basement stairs on multiple occasions where Tamara knew [REDACTED] was sleeping.

56. Tamara's actions proximately caused [REDACTED] significant damage, including but not limited to, physical harm as well as extreme emotional and mental harm in the form of post traumatic stress disorder.

B. Count Two: Premises Liability.

57. Plaintiff incorporates the above paragraphs by reference.

58. [REDACTED] was an invitee in the home possessed by Tamara and Mike at the time of the sexual assault. Tamara had control over the home and a duty to make safe or warn against any unreasonably dangerous condition on the premises. In this case, that duty included a duty to warn [REDACTED] of the foreseeable criminal activity of Mike and a duty to make [REDACTED] safe from that foreseeable criminal activity. Tamara knew that Mike had assaulted [REDACTED] in his car while driving her home from babysitting. She also knew that Mike had sexually and/or physically assaulted at least five other females prior to his assault of [REDACTED]

Tamara was so aware of the threat of sexual and physical assault that Mike posed to [REDACTED] that she agreed that [REDACTED] should never be alone with Mike.

59. On the night of the assault, Tamara was in the kitchen at the top of the stairs that led down to the basement. She had been out with Mike that evening and knew that he had been drinking alcohol. Mike went down the stairs to the basement from the kitchen where Tamara was speaking on the phone three times. Two of those times, he was only partially clothed with underwear. Tamara knew or should have known that [REDACTED] was down in the basement room sleeping because that was the room provided to [REDACTED] for the duration of her stay.
 60. [REDACTED] was a foreseeable victim of Mike's criminal activity. Tamara knew or should have known that Mike would sexually assault [REDACTED] and that he was intending on doing so when he progressed down the basement stairs in only his underwear.
 61. Even so, Tamara did nothing to stop Mike or take any steps to make the home safe for [REDACTED]. Instead, she talked on her phone in the kitchen and ignored that her husband went down the basement stairs on multiple occasions where Tamara knew [REDACTED] was sleeping.
 62. Tamara's actions proximately caused [REDACTED] significant damage, including but not limited to, physical harm as well as extreme emotional and mental harm in the form of post traumatic stress disorder.
- C. Count Three: Gross Negligence.**
63. Plaintiff incorporates the above paragraphs by reference.

64. Plaintiff avers that the conduct of Tamara, which when viewed objectively from the standpoint of Tamara at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and of which Tamara had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights and safety and welfare of [REDACTED]. Specifically, Tamara knew about the extreme of risk to [REDACTED]—an employee and guest at Tamara’s house—as a result of Mike’s alcoholic and sexual deviancy, but nevertheless Tamara was consciously indifferent to [REDACTED]’s safety by failing to protect [REDACTED] from Mike or stopping Mike’s conduct.
65. For this outrageous, malicious or otherwise morally culpable conduct, Plaintiff specifically pleads for the recovery of exemplary damages under TEX. CIV. PRAC. & REM. CODE §41.001(3)(a)(3).
66. Defendant’s actions were done with the specific intent to cause substantial injury or harm to [REDACTED]. As such, those actions give rise to an award of exemplary or punitive damages.

VI.
DAMAGES

A. Actual Damages

67. As a direct and proximate result of the negligent acts and/or omissions of the Defendants as set out above, [REDACTED] has suffered, and in all probability will, for the remainder of her life, continue to suffer past and future (1) mental anguish; (2) medical treatment; (3) physical pain and suffering; (4) physical impairment; (5) humiliation; (6) shame; (6)

fright; and (7) damage to her reputation. All of the above have resulted in damages which are within the jurisdictional limits of this Court, for which Plaintiff now pleads, jointly and severally, against Defendants.

B. Exemplary Damages

68. Plaintiff alleges that the conduct of Mike Ribeiro in sexually assaulting [REDACTED] (detailed above), was outrageous, malicious, or otherwise morally culpable for which punitive damages must justly be awarded. Additionally, by reason of such conduct, Plaintiff is entitled to and therefore asserts a claim for punitive and exemplary damages in an amount sufficient to punish and deter Mike, and others like him, from such conduct in the future. Those punitive damages are uncapped against Defendant Mike Ribiero for his violation of the criminal code in committing sexual assault.

69. Plaintiff alleges that the conduct of Tamara Ribeiro detailed above constituted gross negligence and was outrageous, malicious, or otherwise morally culpable for which punitive damages must justly be awarded. Additionally, by reason of such conduct, Plaintiff is entitled to and therefore asserts a claim for punitive and exemplary damages in an amount sufficient to punish and deter Tamara, and others like her, from such conduct in the future.

VII.

PRE-JUDGMENT AND POSTJUDGMENT INTEREST

70. Plaintiff requests pre-judgment and post-judgment interest in accordance with the maximum legal interest rates allowable as interpreted under the laws of the Federal Rules of Civil Procedure and all other applicable laws.

VIII.

REQUEST FOR A JURY TRIAL

71. Plaintiff demands a jury trial on all issues so triable and had previously paid the applicable fee.

IX.

PRAYER

72. Plaintiff prays that Defendants be cited to appear and answer herein, and that upon final determination of these causes of action, Plaintiff receive a judgment against Defendants, jointly and severally, awarding the Plaintiff as follows:

- a. Actual, compensatory, consequential, uncapped exemplary, and punitive damages, in an amount in excess of the minimal limits of the Court against the named Defendants;
- b. Costs of Court;
- c. Prejudgment interest at the highest rate allowed by law from the earliest time allowed by law;
- d. Interest on judgment at the highest legal rate from the date of judgment until collected; and
- e. All such other and further relief at law and in equity to which the Plaintiff may show herself to be justly entitled.

Respectfully submitted,

/s/ Brent R. Walker

CHARLA G. ALDOUS, lead counsel

Texas Bar No. [REDACTED]
[REDACTED]

BRENT R. WALKER

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On June 18, 2015, this document is being served upon all Parties of record through the Court's e-filing system.

/s/ Brent R. Walker

BRENT R. WALKER