

were going to fight the cases to the fullest extent². She also insisted that us black women must stick together. Plaintiff wasn't sure what that statement meant, other than intimidation. Once Watson's lawyer determined that Plaintiff had not actually filed a lawsuit, Watson's lawyer spent the rest of the dinner attempting to convince Plaintiff to say nice and positive things about Watson. She refused. Watson's team was very concerned that Plaintiff Nia Smith would sue. She had no intention at that point of doing so. She was worried about backlash. She was concerned for her safety. Even so, shortly thereafter her name found its way into the public sphere. She received death threats. She was roundly criticized.

Once her name was in the public arena, Plaintiff Nia Smith was also one of the first women to speak publicly about Watson. She gave an extensive interview about Watson's conduct and her interactions with him. That transcript is attached. Even after speaking out, she had no intention of filing a lawsuit. She did not want to put herself and her family through the turmoil of a long, drawn out, public lawsuit. She did not want to subject herself to further abuse and ugliness she has seen thrown at the other victims by the Watson defense team, public relations team and Watson's fanatics.

Plaintiff Nia Smith changed her mind about filing a lawsuit after watching the HBO *Real Sports* piece about the Deshaun Watson lawsuits. In that piece, Plaintiff was struck by the courage of the victims willing to step forward and speak, and was extremely displeased by Watson and his legal team's mistreatment and revictimization of the Plaintiffs³. But it was Watson himself

² Of course, we now know that Deshaun Watson offered each Plaintiff \$100,000 to settle their cases, but not all would accept that amount, due to the aggressive nondisclosure agreement that Watson's team proposed.

³ Watson's legal team initially accused all twenty-two Plaintiffs of being liars, while at the same time complaining to the court that Watson did not know who they were. Watson's team has now been forced to admit that there was sexual contact with some of the victims, but he does not identify which ones and now claims that the sexual contact was "consensual." Watson's team has spent its time attempting to pick apart the strikingly similar and simple stories each Plaintiff has related about their interactions with Watson, but has never explained why a self-described "world-class" athlete sought out random strangers on Instagram, never asked about qualifications, training, skill set, or licensure, traveled in some cases almost an hour out of town,

claiming that even now he has “no regrets” and has done nothing wrong that solidified her resolve. She brings this case seeking minimum compensation, but to obtain a court finding that Watson’s conduct was wrong.

II. FACTUAL BACKGROUND

Plaintiff is a professionally licensed cosmetologist. She is a single mother who worked for A New U Salon Spa in Houston. Plaintiff had three encounters with Defendant Watson, the first on June 7, 2020. The second session on August 24, 2020. The last session was in late August or early September 2020. Watson’s behavior grew worse during every massage. Plaintiff is a licensed professional and has never had any issues prior to experiencing Defendant’s conduct.

Defendant Watson first made contact with Plaintiff on Instagram via direct message on June 7, 2020 at around 3:00 am in the morning, wherein he inquired about wanting a massage. He stated that he had heard about A New U Spa because of a promotional video that Plaintiff posted on her page. Plaintiff had never had any type of contact with Defendant Watson prior to this message. Plaintiff had never worked with any athletes from the Texans organization. Plaintiff found it somewhat peculiar that a NFL player with millions of Instagram followers would request a massage from her, because she is not a well-known professional and it was her belief that a player like Watson likely had access to an entire team of trainers and the like. She did not even know who Deshaun Watson was at the time. Her friends encouraged her to do the massage. Additionally, when she told the owner of the spa and her boss, Dionne Louis, that it was Deshaun Watson, Ms. Louis agreed to open the salon on a Sunday just for him. Dionne Louis was obsessed with Watson. Plaintiff agreed to Watson’s request for a massage, and the two began to discuss scheduling.

insisted that no one be around, brought his own hand towel and refused to be covered otherwise, at times brought an NDA, and then deleted all his texts and direct messages after the session.

Prior to the scheduled session, Watson described what he was looking for in a phone conversation. He wanted to discuss “focus points.” He was adamant that the focus be on his “glutes.” Plaintiff was only twenty-one years old at the time and did not think anything of the request as she did not know if excessive focus on glutes was perhaps unique to athletes. Looking back at the exchange, she now realizes the way Watson made the request was odd. Watson and Plaintiff continued to exchange messages via text message to arrange scheduling of the massage.

A massage was ultimately scheduled to take place at A New U Salon Spa on June 7, 2020. Watson specifically told Plaintiff that it “can just be you” when she told him she would inform her co-worker with whom she would regularly do massages. Nevertheless, at first perplexed by the text, after some thought, Plaintiff concluded that Watson likely wanted privacy and did not want to be bothered by those impressed by his stature.

During the first massage session, things became progressively weird. Watson kept demanding Plaintiff to go inside of his anus. He did not want her to massage any other part of his body. Only his groin area and buttocks. Plaintiff was extremely confused by this request as this was not something done in a professional massage. Plaintiff tried to avoid the situation by going around his buttocks but he was adamant that she go inside of his anus and touch his buttocks. He would say “don’t be afraid to be go inside.” Plaintiff did not understand as there was nowhere else for her to go but inside of his anus, which she was not going to do. When the massage ended, Plaintiff immediately told her boss Dionne Louis what had happened, who was sitting outside in the waiting area. She told her that Watson kept trying to make her go inside his buttocks. Even though the session had been awkward, Plaintiff was not offended and decided to give Watson the benefit of the doubt as she thought that maybe he was ashamed and embarrassed of this fetish. She thought that maybe he did not want the NFL to know. She decided to shrug it off.

Watson reached out to Plaintiff again on August 16, 2020 via text to request another massage. He asked Plaintiff if the spa would be crowded as he did not want to be around people and he did not even want Ms. Louis to be present. He also asked Plaintiff to wear a sundress to the massage. Plaintiff ignored this request and wore her professional attire. Plaintiff and Watson ultimately agreed to schedule the second session on August 24, 2020. He again asked Plaintiff if the spa would be “packed” and asked to go through the back door of the salon. Watson’s behavior escalated during the second session. He would try to grab Plaintiff’s buttocks and would brush up against her butt, trying to make it look like an accident. Plaintiff pushed his hand away from her. Every time she did that, Watson would say “What?” Watson knew that Plaintiff was uncomfortable. He kept asking Plaintiff if she wanted his penis in her mouth. Plaintiff was feeling extremely uncomfortable by this point, but she wanted to stay professional and not cause any conflict. Watson was much bigger and much stronger, and they were alone in a room. She was deathly afraid of what he would do if she reprimanded him. She also knew that Ms. Louis was very proud to have Watson as a client and Louis had emphasized to Plaintiff that she needed to keep Watson happy. She felt trapped. Watson eventually had an erection with pre-cum oozing out of his penis and dripping onto his stomach. Watson kept telling Plaintiff to touch the cum and kept trying to make her touch the cum. Plaintiff recalls this experience as being the most uncomfortable experience of her life. She cut the session short by fifteen minutes. She resolved to avoid Watson in the future.

But, Watson came back. Plaintiff did not want to do the third massage. However, she could not refuse Watson as a client because of her boss Dionne Louis. By the last session, Watson was done with any niceties or hiding what he really wanted. Prior to the session starting, Plaintiff told Watson she was going to leave the room to allow him an opportunity to undress and to get under

the draping. Watson told Plaintiff that he was not going to put on any draping. He also told her she did not need to leave the room. He took his pants off and got completely naked in front of Plaintiff. He then got onto the massage table and refused to cover himself, exposing himself to her. When Plaintiff tried to massage his legs, Watson became aggressive and demanded that she only massage his buttocks and made her massage that area. He repeatedly requested that Plaintiff have sex with him. He told Plaintiff he had a condom in his bag. He touched Plaintiff in between her legs. She had to massage him from a distance as a way to avoid his groping. When the massage was over, she decided to quit her job at the salon. She was completely traumatized by the experience with Watson. She now realizes that Deshaun Watson, with Dionne Louis's⁴ help, was manipulating her the entire time.

A New U Salon Spa provided women for Watson. Dionne Louis, the owner of the spa, facilitated massages for Watson and knew Watson was attempting to have sex with them. Plaintiff expressed her concerns about Watson to Ms. Louis. Louis brushed the concerns off. It was later learned that Watson paid Dionne Louis at least five thousand dollars for Louis's "work."⁵

Plaintiff agonized over whether to bring a lawsuit against Watson, understanding that there will be those who blame her for Watson's inappropriate and actionable conduct. She did not want to be involved. She was mostly afraid to come forward as she started to receive death threats because of her name being released. She did not want more backlash. She did not think anyone would believe her. But after seeing Watson publicly refuse to take responsibility for his actions, saying he had "no regrets," and Watson's lawyer repeatedly calling the women liars, Plaintiff decided enough was enough. She decided that Watson needs to be held accountable. She does not want him to get away with his lies.

⁴ Louis plead the protections of the Fifth Amendment when asked for her texts between herself and Deshaun Watson.

⁵ Attached herein are Cash App receipts and text messages supporting this allegation.

The NFL is notorious in its own right for a culture that fosters sexual harassment and sexual assault. Despite its lip service and a strong ad campaign to the contrary, many of its players have been accused of committing heinous sexual crimes against women. The NFL is no stranger to scandal, certainly when it comes to offenses against women.

Although Plaintiff seeks minimal compensatory damages, it is to be noted that Plaintiff has suffered mental anguish as a result of Watson's behavior. Even though she was always professional with Watson, as she has been with every client, she at times blames herself. Plaintiff has suffered from panic attacks. She further suffers from depression and anxiety. Plaintiff also has difficulty sleeping. She believes Watson's people are out to kill her. She received counseling and therapy as a result of these incidents.

Plaintiff brings this case seeking compensatory damages at the minimum jurisdictional limits of this Honorable Court, to raise awareness, and to prevent Deshaun Watson and those like him from engaging in further conduct with other future victims.

III. DISCOVERY PLAN

Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure.

IV. PARTIES

Plaintiff Nia Smith is an individual residing in Michigan.

Defendant Deshaun Watson is an individual residing in Ohio and Texas. Defendant may be served at one of his places of residence, 11411 Legend Manor Drive, Houston, Texas 77082 or wherever he may be found.

V. VENUE AND JURISDICTION

Venue and jurisdiction are proper. The relief requested is within the minimal jurisdictional limits of this Court. This is not a case about money. Pursuant to the Texas Civil Practice and

Remedies Code, venue is proper in Harris County, Texas. The acts, events, transactions and omissions made the basis of this lawsuit occurred in whole or in part in Harris County, Texas.

Defendant still conducts operations here in Texas. Defendant maintains properties in Houston, Texas. He is still a resident of Texas. A civil action brought in state court over which a federal district court would have jurisdiction may generally be removed by a defendant to the district court where the state action is pending. 28 U.S.C. § 1441(a). However, when the only basis for federal jurisdiction is diversity of citizenship, removal is not permitted “if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2). Additionally, the amount in controversy pled herein is less than \$75,000. Therefore, removal to federal court is improper.

VI. CAUSES OF ACTION

A. CIVIL ASSAULT

Plaintiff re-alleges each aforementioned allegation as if fully incorporated below.

Defendant Watson committed civil assault on Plaintiff. Specifically, Watson intentionally or knowingly caused physical contact with Plaintiff when Watson knew, or should have reasonably known, that Plaintiff would regard such contact as offensive. As a proximate result of the assault, Plaintiff has suffered damages as described herein. Plaintiff’s harm arises as a result of conduct that violates several sections of the Texas Penal Code, including:

- (1) Section 22.01(a)(3), Penal Code (assault);
- (2) Section 22.012, Penal Code (indecent assault); and
- (3) Section 42.07, Penal Code (harassment).

Thus, in addition to actual damages, Plaintiff seeks punitive damages, and such damages are not subject to capping.

B. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Plaintiff re-alleges each aforementioned allegation as if fully incorporated below.

Watson engaged in conduct to Plaintiff that is extreme and outrageous so as to exceed the bounds of decency in a civilized society, namely, he caused Plaintiff to experience mental suffering by forcing unwanted touching.

Watson engaged in this conduct intentionally, knowingly, and willfully.

Watson's conduct proximately caused injury to Plaintiff. Plaintiff has sustained and will sustain pain and suffering and psychological and emotional distress, mental anguish, embarrassment, and humiliation.

Accordingly, Plaintiff is entitled to recovery against defendants for the damages proximately caused by Defendant Watson's conduct in an amount to be determined at trial. Further, because Plaintiff's harm arises as a result of conduct that violates several sections of the Texas Penal Code, including:

- (1) Section 22.01(a)(3), Penal Code (assault);
- (2) Section 22.012, Penal Code (indecent assault); and
- (3) Section 42.07, Penal Code (harassment).

Thus, in addition to actual damages, Plaintiff seeks punitive damages, and such damages are not subject to capping.

C. NEGLIGENCE AND GROSS NEGLIGENCE

Plaintiff hereby incorporates by reference the paragraphs above as if fully set forth herein.

Plaintiff firmly believes and has pled that Defendant's conduct as described was intentional. Defendant denies he acted intentionally. Thus, in the alternative, Plaintiff alleges that Watson's conduct was unreasonable and thus negligent and grossly negligent. Defendant Watson owed Plaintiff the duty of reasonable care. Defendant breached that duty in at least the following ways:

- a. Scheduling a massage to be alone with Plaintiff knowing of his own sexual proclivities;

- b. Failing to take precautions prior to the massage to prevent a reoccurrence of his known prior conduct towards massage therapists;
- c. Failing to warn Plaintiff of his proclivities and his past conduct;
- d. Exposing himself to the Plaintiff;
- e. Touching Plaintiff with his penis;
- f. Failing to obtain Plaintiff's actual consent before attempting to engage in sexual conduct;
- g. Engaging in sexual conduct even though Plaintiff did not consent; and
- h. Failing to take affirmative steps during the massage to control his unusual sexual proclivities.

Defendant Watson's negligence was a proximate and producing cause of damage to Plaintiff.

Defendant's conduct was malicious and grossly negligent. Thus, in addition to actual damages, Plaintiff seeks punitive damages.

VII. DAMAGES

As a direct and proximate result of Defendant's acts and omissions described above, Plaintiff has incurred the following damages:

- a. Conscious physical and mental pain and suffering, and anguish, past and future;
- b. Physical impairment, past and future;
- c. Loss of enjoyment of life and peace of mind, past and future;
- d. Reasonable and necessary medical, counseling, psychiatric, therapeutic and related expenses, past and future; and
- e. Such other damages that will be shown at trial.

Plaintiff seeks any and all damages to which she may be entitled. As stated, Plaintiff also seeks exemplary damages to deter such conduct going forward, and to make an example of this Defendant.

VIII. NOTICE OF INTENT TO USE DISCOVERY AT TRIAL

Pursuant to Texas Rule of Civil Procedure 193.7, Plaintiff hereby gives notice that she intends to use all discovery instruments produced in this case at trial. Such discovery instruments include, but are not limited to, all documents Defendant will produce, or has produced, in response to Plaintiff's written discovery requests.

IX. REQUEST FOR JURY TRIAL

Plaintiff respectfully demands a jury trial and hereby tenders the appropriate fee.

X. PRESERVATION OF EVIDENCE

Plaintiff hereby requests and demands that Defendant Watson preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, including but not limited to communications, electronic data, mapping data, and location data.

XI. PRAYER

By reason of all the above and foregoing, Plaintiff is entitled to recover from Defendant Watson the damages set forth in this petition, within the jurisdictional limits of this Court. As required by Rule 47, Plaintiff seeks damages consistent with Tex. R. Civ. Proc. 47(c)(3), because that, as set forth above, Plaintiff also seeks punitive damages. Plaintiff also seeks pre-and post-judgment interest at the maximum legal rate, costs of court, punitive damages, and any other relief to which Plaintiff may be justly entitled.

Respectfully submitted,

THE BUZBEE LAW FIRM

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