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FILED IN
4TH DISTRICT COURT
STATE OF UTAH
UTAH COUNTY

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**IN THE FOURTH JUDICIAL DISTRICT COURT IN AND FOR
UTAH COUNTY, PROVO DEPARTMENT, STATE OF UTAH**

CHAD HUDGENS, an individual,)	VERIFIED COMPLAINT AND JURY DEMAND
)	
Plaintiff,)	
vs.)	
)	
PROSPER, INC. a Utah corporation and)	Civil No. <u>080400249</u>
JOSHUA CHRISTOPHERSON, an)	
individual,)	Honorable <u>Scott</u>
)	
Defendants.)	(Jury Trial Demanded)
)	
)	

COMES NOW plaintiff Chad Hudgens (“Hudgens”) and complains and alleges against defendants Prosper, Inc. and Joshua Christopherson (“defendants”) as follows:

PARTIES

1. Plaintiff Chad Hudgens is a resident of Utah County, Utah.
2. Defendant Prosper, Inc. is a resident of Utah County, Utah.
3. Defendant Joshua Christopherson is a resident of Utah County, Utah.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this case pursuant to U.C.A. § 78-3-4.
5. Venue is proper in this Court under U.C.A. §§ 78-13-5 and 7.

BACKGROUND FACTS

6. Prosper provides self-help and motivational coaching to individual clients. During all relevant times, Hudgens was an employee of Prosper.

7. Hudgens was 26 years old and had been working at Prosper for 10 months at the time of the episodes alleged herein.

8. During all relevant times Christopherson was an employee of Prosper. Upon information and belief, Christopherson was one of Prosper's top income producers.

9. During all relevant times, Hudgens was a member of Christopherson's team.

10. Prosper and Christopherson intentionally engaged in physically and emotionally abusive and intimidating conduct for the express purpose of increasing the productivity of the team.

This intentional conduct included the following:

a. Christopherson would draw mustaches using permanent marker on employees who did not meet Prosper's performance goals;

b. Christopherson routinely removed chairs from employees who did not meet Prosper's performance goals; and

c. Christopherson patrolled the work area utilizing a large wooden paddle which he routinely struck on tables and desktops in close proximity to team members;

11. Prosper management knew of this conduct and encouraged it because it resulted in increased revenues for the company. Prosper's management passed by and through Christopherson's team area and was able to see moustaches on its employees, missing chairs and Christopherson's paddle.

12. On or about May 29, 2007, Christopherson asked for volunteers for a new motivational exercise. In his search for volunteers, Christopherson specifically challenged the loyalty and determination of his team members. Christopherson did not disclose what the exercise was. In an effort to prove his loyalty and determination to Christopherson and Prosper, Hudgens volunteered.

13. Christopherson marched his entire team to the top of a hill outside the office. He ordered Hudgens to lie down with his head facing downhill. He instructed the other team members to hold Hudgens by the arms and legs.

14. Christopherson then slowly poured a gallon jug of water over Hudgens' mouth and nostrils, thereby making it impossible for Hudgens for breath for a sustained period of time.

15. Christopherson's exercise is more commonly known as "water boarding," a controversial coercive interrogation technique which some people and governments consider torture. It is designed to, among other things, create panic and confusion in the subject by creating the impression in the subject that he is drowning.

16. Christopherson directed Hudgens' team members to hold him down even though Hudgens was struggling and resisting and was attempting to escape.

17. At the conclusion of his abusive demonstration, Christopherson told the team that he wanted them to work as hard on making sales as Chad had worked to breathe while he was being waterboarded.

18. Following Christopherson's assault, Hudgens approached someone in Prosper's human resources department and explained what had just happened to him. Despite disclosing this information, Prosper took no action, including action against Christopherson, until after Hudgens left Prosper.

19. Following Christopherson's assault, Hudgens began to experience symptoms of sleeplessness, anxiety and depression. He began to feel sick to his stomach at work and was no longer able to work at Prosper.

20. Because of the trauma caused by Prosper's sales exercises, Hudgens has required psychological counseling and has suffered physical and emotional harm.

COUNT I

(Assault and Battery)

21. Hudgens repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 20 of his Verified Complaint.

22. Prosper and Christopherson intentionally used force on Hudgens that caused Hudgens to have reasonable apprehension of immediate bodily harm.

23. The intentional forced used by Prosper and Christopherson did cause Hudgens bodily and emotional harm.

24. As a result of the intentional conduct of Prosper and Christopherson, Hudgens has suffered damages in an amount to be proven at trial.

25. The conduct of Prosper and Hudgens was undertaken in bad faith and was in reckless disregard of and wanton indifference towards the rights of Hudgens, thereby entitling him to an award of punitive or exemplary damages.

COUNT II

(Intentional Infliction of Emotional Distress)

26. Hudgens repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 25 of his Verified Complaint.

27. Prosper and Christopherson intentionally utilized means of physical and emotional intimidation and cruelty for the express purpose of causing Hudgens and others to generate more revenue for the company.

28. Prosper and Christopherson intentionally inflicted emotional distress on Hudgens in an outrageous attempt to improve his sales performance and therefore the sales performance of Christopherson's team and the revenue of the company.

26. As a result of the conduct of Prosper and Christopherson, Hudgens has been damaged in an amount to be proven at trial.

27. The conduct of Prosper and Hudgens was undertaken in bad faith and was in reckless disregard of and wanton indifference towards the rights of Hudgens, thereby entitling him to an award of punitive or exemplary damages.

COUNT III

(Wrongful Termination)

28. Hudgens repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 27 of his Verified Complaint.

29. Prosper and Christopherson intentionally created a work environment that made it impossible for Hudgens to remain employed there.

30. The physical and emotional harm inflicted upon Hudgens caused him to leave Prosper. As such, the conduct of Prosper and Christopherson constitutes wrongful termination of Hudgens.

31. As a result of the conduct of Prosper and Christopherson, Hudgens has been injured in an amount to be proven at trial.

32. The conduct of Prosper and Hudgens was undertaken in bad faith and was in reckless disregard of and wanton indifference towards the rights of Hudgens, thereby entitling him to an award of punitive or exemplary damages.

COUNT IV

(Intentional Interference With Contractual Relations Against Christopherson)

33. Hudgens repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1 through 32 of his Verified Complaint.

34. To the extent Christopherson was not acting on behalf of Prosper or working within the scope of his authority at Prosper, he was a stranger to the employment relationship between Prosper and Hudgens.

35. Christopherson's physical and emotional abuse of Hudgens caused Hudgens to quit his job at Prosper. As such, Christopherson interfered with Hudgens' employment relationship with Prosper.

36. Christopherson used improper means in interfering with Hudgens' employment relationship with Prosper and Christopherson acted for an improper purpose.

37. As a result of this conduct, Hudgens has been damaged in an amount to be proven at trial.

38. The conduct of Prosper and Hudgens was undertaken in bad faith and was in reckless disregard of and wanton indifference towards the rights of Hudgens, thereby entitling him to an award of punitive or exemplary damages.

WHEREFORE, Hudgens respectfully prays the following relief:

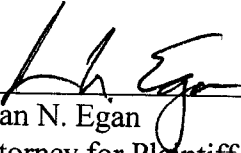
1. With respect to Count I, damages, including punitive or exemplary damages, in an amount to be proven at trial;
2. With respect to Count II, damages, including punitive or exemplary damages, in an amount to be proven at trial;
3. With respect to Count III, damages, in an amount to be proven at trial;
4. With respect to Count IV, damages, in an amount to be proven at trial;
5. All costs and fees associated with the maintenance of this action; and
6. Any and all other relief this Court may deem just and proper.

REQUEST FOR JURY

Pursuant to U. R. Civ. P. 38, Hudgens respectfully requests a jury for all claims in this action so triable.

RESPECTFULLY SUBMITTED this 15th day of January, 2008.

By


Sean N. Egan
Attorney for Plaintiff

Plaintiff's Address:

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