

ORIGINAL

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW

JENNIFER JORY,

Plaintiff,

HON.
Circuit Court Judge

Timothy P Connors

-vs-

Case No. *17-442-NO*

ORKIN, LLC,
a Delaware Limited Liability Company, and
DAVID WAYNE FARLEY,

Defendants.

FILED

MAY 19 2017

WASHTENAW COUNTY, MI
CLERK OF THE COURT

Laurence H. Margolis (P69635)
Margolis Law, PC
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COMPLAINT

*NO OTHER CIVIL ACTION WHICH ARISES FROM THE SAME
TRANSACTION OR EVENT AS STATED IN THIS COMPLAINT
IS PENDING OR WAS PREVIOUSLY FILED IN THIS COURT.*

NOW COMES the Plaintiff, Jennifer Jory, by and through counsel, Margolis Law, PC,
and for her cause of action against the Defendant states as follows:

JURISDICTION AND VENUE

1. Plaintiff Jennifer Jory lives in the Township of Willis, County of Washtenaw, State of
Michigan.

2. Defendant Orkin, LLC is a Delaware Limited Liability Company doing business in the County of Washtenaw, State of Michigan.

3. On information and belief, Defendant David Wayne Farley lives in the City of Wyandotte, County of Wayne, State of Michigan.

4. The transactions that form the basis for this complaint occurred in the County of Washtenaw, State of Michigan.

5. Venue in this Court is proper pursuant to the revised Judicature Act.

6. Plaintiff's alleged damages exceed Five Million (\$5,000,000.00) Dollars, exclusive of interests, costs, and attorney's fees.

COMMON ALLEGATIONS

7. Plaintiff hereby alleges and incorporates all prior paragraphs of this Complaint, as though they were fully set forth herein.

8. At all times relevant to this complaint, Defendant David Wayne Farley was employed by Defendant Orkin, LLC as a Residential Sales Inspector.

9. Defendant Farley's duties as a Residential Sales Inspector included traveling to the homes of customers to inspect for signs of insect infestation.

10. On or about February 11, 2015, Orkin supervisors had a "coaching discussion" with Defendant Farley in response to an incident in which he inspected a female client's bare buttocks for bug bites while he was dispatched to her home.

11. On or about November 19, 2015, in response to a similar incident, Orkin supervisors had another "coaching discussion" with Defendant Farley in which he was again warned never to inspect client's bodies for bug bites.

12. On or about December 8, 2015, Defendant Orkin documented another incident in Defendant Farley's employment file in which he rummaged through a young woman's underwear drawer while dispatched to a client's house, and made a young girl to cry by deliberately grabbing the girl's toy elf after she told him not to touch it.

13. On or about January 28, 2016, a customer reported to Defendant Orkin that Defendant Farley had molested and partially removed clothing from both her step-daughter and her elderly mother while he was dispatched to her home to inspect for bed bugs the day before.

14. This customer also reported that Defendant Farley had also rummaged through her mother's underwear drawer when he was alone in her mother's bedroom, and possibly stole her mother's panties.

15. On February 6, 2016, Defendant Orkin issued a "formal warning" to Defendant Farley in relation to the January 27th incident, but continued to employ him and dispatch him, unsupervised, to the homes of female customers.

16. On April 14, 2016, Defendant Orkin dispatched Defendant Farley to the home of Plaintiff Jennifer Jory.

17. Plaintiff Jennifer Jory is intellectually impaired and receives federal disability benefits for her low IQ and learning disabilities.

18. After arriving at Plaintiff Jory's home, Defendant Farley told her that he needed to check her body for bed bug bites and proceeded to lift up her shirt.

19. Defendant Farley then got on his knees behind Plaintiff Jory, who was standing, and pulled the elastic waistband of Plaintiff Jory's lounge pants away from her body.

20. Defendant Farley looked down at Plaintiff Jory's buttocks, explaining to her that this was a place that bed bugs liked to hide.

21. Defendant Farley then moved around Plaintiff Jory until he was kneeling in front of her. Defendant Farley pulled out her waistband and looked down at her crotch area.

22. Defendant Farley then told Plaintiff Jory that he needed to check under her breasts for bed bugs, as this is also a place that they like to hide.

23. Defendant Farley lifted up Plaintiff Jory's shirt and fondled her breasts.

24. Plaintiff Jory remained frozen in fear for the entire interaction, unsure if what was happening to her was standard Orkin protocol.

25. The following day, Plaintiff Jory called Defendant Orkin's office and asked if what Defendant Farley had done to her was part of their service. After Plaintiff Jory was informed that under no circumstances should Orkin technicians be touching her or removing her clothing, she called her therapist and the police.

26. Defendant Farley was arrested in connection with the incident at Plaintiff Jory's home and charged with 4th Degree Criminal Sexual Conduct.

27. On January 24, 2017, Defendant Farley pled guilty to attempted 4th Degree Criminal Sexual Conduct.

COUNT I: SEXUAL ASSAULT AND BATTERY

(Defendants Farley and Orkin, LLC)

28. Plaintiff hereby alleges and incorporates all prior paragraphs of this Complaint, as though they were fully set forth herein.

29. On April 14, 2016, Defendant Farley negligently and/or willfully or maliciously touched Plaintiff Jory's person in a sexual manner against her will.

30. On April 14, 2016, Defendant Farley touched Plaintiff Jory's breasts and inspected Plaintiff Jory's buttocks for the ostensible purpose of checking for bedbug bites.

31. Defendant Farley's job duties as a Residential Sales Inspector at Defendant Orkin, LLC included conducting inspections to determine whether customers' residences were infested with bedbugs.

32. While Defendant Farley was engaged in unlawful sexual touching of Plaintiff Jory, Defendant Farley was an on-duty employee of Defendant Orkin, LLC.

33. While Defendant Farley was engaged in unlawful sexual touching of Plaintiff Jory, Defendant Farley was engaged in the service of his master, Defendant Orkin, LLC, or was about his master's business.

34. As a result of Defendant Orkin's and Defendant Farley's negligent and/or intentional, reckless, wanton, and outrageous conduct, the Plaintiff has suffered actual damages. These damages include severe emotional distress, terror, shame, humiliation, psychological injuries including an anxiety disorder, fright and shock, inability to experience social pleasures and enjoyment, and all additional injuries and damages discovered throughout the course of this litigation.

COUNT II: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Defendants Farley and Orkin, LLC)

35. Plaintiff hereby alleges and incorporates all prior paragraphs of this Complaint, as though they were fully set forth herein.

36. Defendant Farley's conduct with Plaintiff Jory and other women whose homes he entered in the course of his employment was intentional, extreme and outrageous.

37. After receiving multiple reports of sexual assaults and sexually-inappropriate behavior involving Defendant Farley, Defendant Orkin's decision to continue employing him

and to continue dispatching him, unsupervised, to customers' homes, demonstrates reckless and outrageous disregard for the safety of female Orkin customers.

38. As a result of Defendant Orkin's and Defendant Farley's conduct, Plaintiff Jory has suffered extreme emotional distress.

39. As a result of Defendant Orkin's and Defendant Farley's negligent and/or intentional, reckless, wanton, and outrageous conduct, Plaintiff Jory has suffered actual damages. These damages include severe emotional distress, terror, shame, humiliation, psychological injuries including an anxiety disorder, fright and shock, inability to experience social pleasures and enjoyment, and all additional injuries and damages discovered throughout the course of this litigation.

COUNT III: NEGLIGENCE TRAINING

(Defendant Orkin, LLC)

40. Plaintiff hereby alleges and incorporates all prior paragraphs of this Complaint, as though they were fully set forth herein.

41. Defendant Orkin, LLC brings its employees into contact with members of the general public when it dispatches them to the homes of its customers to detect and/or treat pest infestations.

42. Defendant Orkin, LLC has a duty to exercise reasonable care for the safety of its customers in the training of the Orkin personnel that are dispatched to their homes.

43. Defendant Orkin, LLC failed to adequately train Defendant Farley to inspect only inanimate objects and not to inspect customer's bodies for signs of bedbug infestation.

44. As a result of Defendant Orkin's negligence and gross negligence in training Defendant Farley, the Plaintiff has suffered actual damages. These damages include severe

emotional distress, terror, shame, humiliation, psychological injuries including an anxiety disorder, fright and shock, inability to experience social pleasures and enjoyment, and all additional injuries and damages discovered throughout the course of this litigation.

COUNT III: NEGLIGENT SUPERVISION

(Defendant Orkin, LLC)

45. Plaintiff hereby alleges and incorporates all prior paragraphs of this Complaint, as though they were fully set forth herein.

46. Defendant Orkin, LLC has a duty to exercise reasonable care for the safety of its customers in the supervision of Orkin personnel that are dispatched to their homes.

47. On April 14, 2016, Defendant Orkin, LLC failed to adequately supervise Defendant Farley so as to prevent him from touching and inspecting the Plaintiff's breasts, buttocks, and genitals for signs of bedbug bites.

48. As a result of Defendant Orkin's negligence and gross negligence in supervising Defendant Farley, the Plaintiff has suffered actual damages. These damages include severe emotional distress, terror, shame, humiliation, psychological injuries including an anxiety disorder, fright and shock, inability to experience social pleasures and enjoyment, and all additional injuries and damages discovered throughout the course of this litigation.

COUNT IV: NEGLIGENT RETENTION

(Defendant Orkin, LLC)

49. Plaintiff hereby alleges and incorporates all prior paragraphs of this Complaint, as though they were fully set forth herein.

50. Defendant Orkin, LLC knew, or should have known, that Defendant Farley had engaged in a pattern of predatory sexual conduct with female customers going back to at least February of 2015.

51. Defendant Orkin, LLC has a duty to Plaintiff Jory and to its other residential customers to protect them from being sexually assaulted by the Orkin employees dispatched to their homes, if such sexual assaults were reasonably foreseeable.

52. By February of 2016, it was reasonably foreseeable that Defendant Farley would sexually assault female Orkin customers if dispatched to their homes, because he had done so on several occasions over the previous year.

53. Nevertheless, Defendant Orkin, LLC failed to report Defendant Farley's predatory sexual behavior to law enforcement and failed to stop dispatching him to the homes of female customers.

54. As a result of Defendant Orkin's negligence and gross negligence in continuing to employ Defendant Farley and failing to report Defendant Farley's crimes to law enforcement, the Plaintiff has suffered actual damages. These damages include severe emotional distress, terror, shame, humiliation, psychological injuries including an anxiety disorder, fright and shock, inability to experience social pleasures and enjoyment, and all additional injuries and damages discovered throughout the course of this litigation.

JURY DEMAND

Plaintiff demands a trial by jury.

RELIEF REQUESTED

Accordingly, the Plaintiff requests the following relief from the court:

- a) An order for an award of full compensatory damages for those injuries and damages to the Plaintiff caused by the Defendants' intentional and outrageous conduct in excess of Five Million (\$5,000,000.00) Dollars, or whatever amount the trier of fact finds the Plaintiff to be entitled;
- b) An order for an award of exemplary damages to compensate the Plaintiff for the indignity, outrage, and humiliation that the Defendants willfully and maliciously inflicted upon her;
- c) An order of actual reasonable attorney fees and litigation expenses;
- d) An order for all such other relief the court deems reasonable, just, and equitable under the circumstances.

Respectfully submitted,

By: 

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Dated May 19, 2017