

Attorney Code #70753

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

RAYMOND L. HUGLEY,)	
)	
Plaintiff,)	
)	
v.)	No. 98 L 8352
THE ART INSTITUTE OF CHICAGO, an)	
Illinois not-for-profit corporation,)	
and MARION ELLIS,)	
)	
Defendants.)	
)	

VERIFIED COMPLAINT FOR DEFAMATION PER SE

Plaintiff, RAYMOND L. HUGLEY, by his attorney Ronald B. Schwartz, complains against Defendants, THE ART INSTITUTE OF CHICAGO, an Illinois not-for-profit corporation, and MARION ELLIS, an individual who works and resides in Chicago, Illinois:

Introduction

1. Raymond Hugley was hired in February 1987 as a locksmith in the Department of Protection Services of Defendant, The Art Institute of Chicago (hereinafter "Art Institute").

2. Hugley was promoted to lead locksmith, a position Hugley held until his termination on November 21, 1995.

3. Hugley had an outstanding reputation at the Art Institute and within the community as a good citizen and excellent employee.

4. The Art Institute is a not-for-profit Illinois corporation which operates a museum and employs more than 1,000 individuals full time.

5. Marion Ellis is employed by the Art Institute as a security guard.

The Confrontation

6. On the afternoon of November 15, 1995, in the North Wing of the museum, a confrontation occurred involving Hugley and Richard Hall, then a custodian at the Art Institute.

7. Hall initiated the confrontation by pacing back and forth

outside Hugley's office where Hugley was working at his desk. Hugley and Hall exchanged words in the hallway. Hugley told Hall to leave him and his wife, who was Hall's supervisor, alone. Hall mumbled and cursed in response.

8. Hall reacted to the confrontation by falsely stating that Hugley made a death threat against Hall during the confrontation. Hall communicated this false accusation to the management of the Art Institute.

Ellis' False Statements

9. Defendant, Marion Ellis, at all times relevant to this action, has been employed as a security guard by the Art Institute.

10. On November 17, 1995, Ellis stated, both verbally and in writing, that she heard Hugley make a death threat against Hall during the afternoon of November 15, 1995. This was the first time that Ellis made such statements.

11. Ellis made the statements and published them knowing that they were false.

12. Ellis made these statements and published them while acting within the scope of her employment with the Art Institute. Said statements were also made in accordance with her job description.

13. Ellis made and published the statements to Robert Koverman, the Art Institute's Executive Director of Protection Services and to Fred Venhuizen, Hugley's immediate supervisor.

14. Ellis told Koverman and Venhuizen that Hugley said to Hall that "I'll bust a cap on you." She said that these words meant that Hugley "was going to kill him, shoot you or do something with a gun."

15. The defamatory statements are contained in a signed statement by Ellis dated November 17, 1995 and Q & A signed by Koverman and Venhuizen, a true and correct copy of which is attached and incorporated as part of this complaint as Exhibit A [omitted here].

16. Ellis subsequently testified under oath that she was escorting a worker who was working on door frames when she heard but did not see the alleged death threat being made.

17. Ellis further testified under oath that when she heard the threat she was standing in Gallery 50 next to the door between Gallery 50 and the private area of the North Wing. This doorway is approximately 85 feet from the entrance to Hugley's office. Ellis indicated where she and the worker were standing by placing an "E"

for herself and "JD" for the worker on a floor plan of the North Wing, a copy of which is attached to this Complaint as Exhibit B [omitted here].

Abuse of Qualified Privilege

18. On November 15, 1995, Ellis' security guard assignment was to provide an escort for Jay Dee General Contractors, Inc. or its sub-contractor Door Tech, Inc., whose job was to work on door frames in the North Wing.

19. On November 15, 1995, no other contractor was working on door frames in the North Wing of the Art Institute.

20. The form memorandum transmitted to the Art Institute's Department of Protection Services regarding the door frame work to be performed on November 15, 1995, did not reference or include the door frame between the private area of the North Wing and Gallery 50, as an area where work would be performed on November 15, 1995.

21. Outside contractors must sign a Contractor Access Register and note the time when they enter or leave the Art Institute.

22. The name of Rob Wisniewski, an employee of Door Tech, Inc., appears on the Goodman Dock Contractor Access form for November 15, 1995.

23. The only other individual from Jay Dee General Contractors, Inc. or its sub-contractor Door Tech, Inc. who is listed on the Contractor Access Register forms for November 15, 1995, is Robert Mateja. He was the foreman of the project.

24. According to the Contractor Access Register, Mateja signed in at 10:52 a.m. and signed out at 12:10 p.m.

25. Ellis did not escort Mr. Mateja during the afternoon of November 15, 1995.

26. Mr. Wisniewski was escorted by Ellis during the afternoon of November 15, 1995.

27. On November 15, 1995, Wisniewski did not perform any work on the door frame between the private area of the North Wing and Gallery 50.

28. Wisniewski signed out of the Art Institute at 2:20 p.m., on November 15, 1995.

29. Hall testified under oath that Hugley made the alleged death threat around 2:45 p.m., on November 15, 1995.

30. Ellis abused her qualified privilege by falsely stating

that she heard Hugley make a death threat against Hall during her security guard shift. Ellis knew that the statements were false at the time that she first made them. Consequently, her communications with Koverman, Venhuizen and others are not privileged.

Defamation Per Se

31. Said statements by Ellis are libel per se and slander per se because the statements accuse Hugley of committing an act which is a crime and which injured his reputation in his occupation and resulted in the loss of his job at the Art Institute.

32. As a result of the above described defamation, Plaintiff has suffered harm to his personal and occupational reputation, humiliation, extreme emotional distress and mental suffering.

Art Institute's Liability for Ellis' Defamatory Statements

33. Defendant, Art Institute, is jointly and severally liable for the defamatory statements of Ellis because she was acting within the scope of her employment in furtherance of the Art Institute's business.

34. A second, and independent, basis for the abuse of its qualified privilege is that the Art Institute failed to properly investigate the accusations against Hugley in that:

- a. Koverman, who spearheaded the investigation, accepted that Ellis was present to hear the threat without any investigation as to whether she was there;
- b. Ellis' location, when she allegedly heard the threat, was never determined;
- c. Hugley was never asked during the investigation if Ellis was present during the afternoon confrontation;
- d. The Contractor's Access Register sheets for November 15, 1995 were not examined;
- e. The worker escorted by Ellis the afternoon of the confrontation was not contacted; and
- f. Richard Hall's personnel file was not reviewed to determine if he had a discipline record.
In fact, Hall had a previous write-up by a

supervisor for using foul and abusive language.

35. A third, and independent basis, for the abuse of its qualified privilege is that the Art Institute engaged in the spoliation of evidence.

36. A videotaped statement of Mr. Hall was presented by the Art Institute at Hugley's grievance hearing. The version of the videotape shown to the grievance committee omitted a question by Koverman as to whether others might have heard the confrontation between Hugley and Hall, and Hall's response to that question.

37. Defendant, Art Institute, ratified and condoned Ellis' false statements and defamation by discharging Hugley from his employment with the Art Institute. Therefore, the Art Institute is liable not only for compensatory damages, but also for punitive damages.

Limitations Period

38. This action is timely filed in that the United States District Court declined to exercise supplemental jurisdiction as to this defamation claim in a decision issued on April 24, 1998.

WHEREFORE, Plaintiff, RAYMOND L. HUGLEY, prays for judgment in a sum in excess of \$50,000 for compensatory damages and \$500,000 in punitive damages against Defendants, THE ART INSTITUTE OF CHICAGO, an Illinois not-for-profit corporation, and MARION ELLIS.

JURY DEMAND

Plaintiff demands trial by jury of the allegations contained in this complaint.

Respectfully submitted,

Attorney for Plaintiff

AFFIDAVIT

Raymond L. Hugley on oath states that the allegations in this complaint are true.

RAYMOND L. HUGLEY

Subscribed and sworn to before me
this day of 1998

NOTARY PUBLIC

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RULE 222(B) AFFIDAVIT OF DAMAGES SOUGHT

The total monetary damages sought in this matter does exceed
the sum of \$50,000.

RAYMOND L. HUGLEY

Subscribed and sworn to before me
this day of 1998

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