

18-CV-0686

Cause No. _____

B. B.
Plaintiff,

vs.
**JEREMY PRATT &
CT MOTORS, INC.**
Defendants.

Galveston County - 212th District Court

DISTRICT COURT
GALVESTON COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION
FOR LIBEL, DEFAMATION AND BUSINESS DISPARAGEMENT,
REQUEST FOR DISCLOSURE AND REQUEST FOR PRODUCTION**

DISCOVERY-CONTROL PLAN

Discovery Level 2 of Texas Rules of Civil Procedure applies to this Petition.

PARTIES

1. Plaintiff Brett Bland is an individual residing in Harris County, Texas.
2. Defendant Jeremy Pratt ("Pratt") is an individual residing in League City, Galveston County. Pratt may be served at [REDACTED] or wherever he may be found.
3. Defendant CT Motors, Inc. is a Delaware corporation having its principal executive offices in Fort Lauderdale, Florida and operating as AutoNation Acura Gulf Freeway ("AutoNation") in League City, Galveston County. AutoNation Acura may be served with process by serving its registered agent Corporation Service Company d/b/a CSC-Lawyers Inc., at 211 E. 7th Street, Suite 620, Austin, Texas 78701.
4. Venue is proper in this county under Texas Civil Practice & Remedies Code S. 15.017.

ALLEGATIONS OF FACT

5. Plaintiff worked for Pratt and AutoNation Acura in League City for over a year. Throughout, Pratt was abusive toward Plaintiff and other AutoNation sales people. His abusive behavior included nearly constant taunting, inappropriate banter, and making extremely crass, vulgar and rude comments to or at the expense of Plaintiff. Additionally, Pratt created a sexually hostile environment by lacing his verbal antics with explicit sexual banter and innuendo and by engaging in numerous, non-consensual acts of pinching and touching his male subordinates' nipples. Pratt liberally used "social media" as well as his own foul mouth in his abusive behavior toward his subordinates. He reinforced dominance over his subordinates by regularly entering their enclosed offices, intentionally passing gas, and then laughing as they were forced to breathe soiled air.
6. For over a year, Pratt conducted the above pattern of abusive behavior toward Plaintiff and other subordinates openly while AutoNation management acquiesced and turned a blind eye, opening the door to more and more nasty behavior by Pratt. For example, on one occasion occurring within the last twelve months, Pratt used AutoNation computers and printing equipment to generate paper "flyers" mocking Plaintiff and calling him a "cancer," which Pratt distributed around the dealership with no consequence from AutoNation management.
7. In February 2018, using texting and social media, Pratt published by "group text" to a group of 8—10 persons, a photograph of Plaintiff inserted within a blatantly false and defamatory message stating "keep your children safe" and that "[y]ou are receiving this because there may be a risk of sex offender activity in your area," with a link to "actual sex offender information." The defamatory message showed Plaintiff's photograph alongside

the photograph of a minor female child depicted as a victim or potential victim of sexual abuse. Pratt published this outrageous material to every one of the salesmen at the AutoNation Acura store where he and Plaintiff worked. Plaintiff learned of the publication because he also received the “group text.” This upset Plaintiff greatly. Plaintiff is not a sex offender and has no such criminal history.

8. Pratt enlisted another subordinate dealership employee, “[REDACTED]” to digitally paste or “Photoshop” Plaintiff’s image onto the libelous material. Upon seeing the image on the group text, another recipient named “[REDACTED]” replied onto the group thread that he “was wondering why [Plaintiff] kept asking if I had any pictures of my nieces or nephews.” Plaintiff learned of “[REDACTED]’s” response by receiving it through the “group text.” This also upset Plaintiff greatly.
9. Pratt warned Plaintiff and other subordinates that they could try complaining about him to AutoNation Human Resources, but that others had tried many times before and that Human Resources wouldn’t do anything because Pratt had the director of Human Resources “wrapped around his finger.”
10. Shortly after Pratt’s publication of the defamatory sex offender material, Pratt was fired and Plaintiff was immediately retaliated against by AutoNation’s management. Specifically, Plaintiff was told he would be subject to a policy called “8 or the gate,” meaning he would face termination for not selling 8 vehicles per month. Prior to Plaintiff’s complaints about Pratt to AutoNation management resulting in Pratt’s termination, the “8 or the gate” policy was not in effect and/or enforced as to Plaintiff. Then, several weeks after imposing this retaliatory policy against Plaintiff, AutoNation management backtracked and claimed to Plaintiff they would not be disciplining Plaintiff at this time.

Plaintiff remains concerned that the retaliatory policy will be reinstated against him after enough time passes to overcome the appearance of retaliation.

11. Following AutoNation's retaliatory imposition of the "8 or the gate" policy against Plaintiff, Pratt sent Plaintiff a text message taunting Plaintiff for being subjected to possible termination under the "8 or the gate" policy. Plaintiff has not communicated with Pratt since Pratt's termination, and does not know how Pratt gained confidential personnel information about the conditions of Plaintiff's continuing employment at AutoNation.
12. AutoNation management continues to allow Pratt to loiter on dealership premises during regular working hours; while there, Pratt harasses and belittles Plaintiff and other former subordinates.

DISPARAGEMENT AND DEFAMATION

13. Plaintiff hereby incorporates by reference all previous and following allegations in this petition.
14. Pratt deliberately, willfully and maliciously engaged in a smear campaign against Plaintiff disparaging and defaming his business, his good name, and his reputation. Alternatively, Pratt's defamation was committed negligently or with gross negligence.
15. These acts of defamation were both written and spoken and were published, republished and self-published.
16. The defamatory words were defamatory per se, unjustified, untrue and unprivileged.
17. As a result of these things, Plaintiff suffered substantial damage for which he seeks trial by jury and verdict in his favor, including a verdict of punitive or exemplary damages without limitation.
18. Plaintiff's injury resulted from defendant's intentional acts, which entitles plaintiff to

exemplary damages under Texas Civil Practice & Remedies Code section 41.003(a).

JURY DEMAND

19. Plaintiff demands a jury trial and all rights under the Seventh Amendment to the United States Constitution.

DEMAND TO PRESERVE EVIDENCE

20. Plaintiff demands that defendants preserve all evidence that is or may be relevant to the claims and defenses of the allegations herein, including in particular all electronic data and information of every kind.

REQUEST FOR DISCLOSURE

21. Plaintiff requests that defendant disclose the information and material described in Texas Rule of Civil Procedure 194.2 within the time required by the rule.

REQUEST FOR PRODUCTION

22. Under Texas Rules of Civil Procedure 196, Plaintiff requests that Defendants produce, within 50 days of the service of this request, the information or material described in Plaintiff's requests for production, attached as **Exhibit A**, and served contemporaneously herewith.

RELIEF DEMANDED

23. Plaintiff demands trial by jury and judgment against Defendant Jeremy Pratt as alleged herein for:
- a. Actual damages;
 - b. Exemplary damages without regard to any statutory or other limitation;
 - c. Prejudgment and post-judgment interest;
 - d. Court costs; and

- e. All other relief to which plaintiff is entitled at law, equity or by statute.

Respectfully submitted,

/s/

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ATTORNEYS FOR PLAINTIFF

EXHIBIT A

Cause No. _____

B. B.
Plaintiff,

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JEREMY PRATT &
CT MOTORS, INC.
Defendants.

_____ DISTRICT COURT
GALVESTON COUNTY, TEXAS

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANTS

Plaintiff serves his first request for production to Defendants Jeremy Pratt ("Pratt") and CT Motors, Inc. operating as AutoNation Acura Gulf Freeway ("AutoNation") under Rule 196 of Texas Rules of Civil Procedure.

Respectfully submitted,

/s/

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify a copy of the foregoing document has been filed as **Exhibit A** to plaintiff's original petition on May 25, 2018 and has been served in accordance with the Texas Rules of Civil Procedure contemporaneously with plaintiff's original petition to defendants.

/s/ *Sean Buckley*

Sean Buckley

DEFINITIONS

As used herein:

1. "Person" or "persons" means a natural person, corporation, partnership, unincorporated association or any other form of business, governmental, public or charitable entity.
2. "Documents" shall mean any written, printed, typed, drawn, punched, taped, filed, recorded or graphic matter, which is in your possession, custody or control, including, but not limited to, any account, record, book, pamphlet, brochure, catalog, periodical, publication, advertisement, schedule, list, manual, letter, correspondence, communication, telephone record, e-mail, memorandum, text message, contract, lease, invoice, manifest, purchase order, ticket, log, computer record, bulletin, study, survey, call report, sales letter, chart, graph, index, data sheet, inter or intra company communication, report, plan, worksheet, note, bill, check, bank statement, ledger, journal, travel record, desk calendar, minutes, transcripts, accounting record, financial record, bookkeeping record, photograph, tape recording, video tape or other form of data compilation. This definition includes all copies, reproductions or facsimiles of documents by whatever means made and all documents for which privilege is claimed. If copies of a document are not identical by reason of handwritten notations, identification marks or any other modifications, each such non-identical copy is a separate document within the meaning of this definition.
3. The terms "relate" or "relating to" are to be construed in their broadest sense and shall mean to refer to, discuss, involve, reflect, deal with, consist of, represent, comprise, constitute, embody, analyze, emanate from, be directed at, or in any way to pertain to or be in any way logically or factually connected with.
4. "Including" or "includes" means including without limitation.
5. "Correspondence" means any transfer, attempted transfer or requests for a transfer of information between persons, including but not limited to, e-mails, letters, text messages, and voicemails.
6. "Or" means "and/or."
7. "And" means "and/or."
8. "AutoNation" shall mean Defendant CT Motors, Inc., its officers, directors, agents, servants, employees, attorneys and/or representatives of the foregoing.
9. "Pratt" shall mean Defendant Jeremy Pratt, his agents, attorneys and/or representatives.
10. "You", "Your", "defendant", and "defendants" shall mean AutoNation, Jeremy Pratt, their officers, directors, agents, servants, employees, attorneys and/or representatives.
11. "Employee", "employees", "employment" or "working for you" shall include independent

contractors and temporary personnel.

12. "Date" refers to the month, day and year.
13. The singular shall include the plural and vice versa, and the conjunctive shall include the disjunctive and vice versa in order to give these interrogatories the broadest scope. All words and phrases shall be construed as masculine, feminine, or neuter gender, according to the context.

INSTRUCTIONS

1. Each of the following categories is to be construed and responded to independently and not to be referenced to any other item herein for the purposes of limitation.
2. Documents produced pursuant to this request shall be tendered either in the precise form or manner that they are kept in the usual course of business or organized and labeled to correspond with the categories which follow in this request.
3. If you have ever had any of the documents referred to herein in your possession, custody or control whether actual or constructive, but do not now, please state the following with respect to each such document:
 - (a) whether it is missing or lost, has been destroyed, has been transferred voluntarily or involuntarily to other or otherwise disposed of;
 - (b) the present location of such documents, if known, or all reasons why the party cannot or does not know the location thereof;
 - (c) the date each such document left the possession, custody or control of the parties;
 - (d) the reasons why each such document is not now in the possession, custody or control of the party; and
 - (e) the names and addresses of persons having knowledge about the matters which are the subject of inquiry in the immediately preceding paragraphs (a)-(d).
4. If any document requested herein has been destroyed, you are requested to describe in detail the circumstances of and the reasons for such destruction and to produce all documents which relate to either the circumstances or reasons for such destruction.
5. It is not plaintiff's intention to exceed the scope of permissible discovery, particularly of privileged matters. If any document requested herein is withheld under claim of privilege or is not produced for whatever reason, you are requested to (i) state specifically the claim of privilege or other reason used to withhold production, and (ii) identify each document by date, author and subject matter, without disclosing its contents, in a manner sufficient to allow it to be described to the court for a ruling on the privilege or other reason asserted.

You are further requested to produce those portions of any such document which are not subject to a claim of privilege, if it does not result in disclosing the contents of the portion for which some privilege is asserted.

6. This request for production is continuing in nature. If further information or documents come into your possession or are brought to your attention during preparation for a trial, supplementation of your response is required.

REQUESTS FOR PRODUCTION

Produce all documents relating to, concerning or affecting the claims or defenses urged in this lawsuit, including but not limited to, the following:

1. All your mobile phone billing records showing the calls you made or received from January 1, 2018 to present.

RESPONSE:

2. All text messages which were sent or received by You from January 1, 2018 to present.

RESPONSE:

3. All emails in any account of yours that relate in any way to plaintiff or the allegations in plaintiff's original petition.

RESPONSE:

4. All electronically stored information of any kind that relates in any way to plaintiff or the allegations in plaintiff's petition.

RESPONSE:

5. All versions of the electronic message referred to in the petition which were sent by You to any person.

RESPONSE:

6. All employee guidelines, instructions, rules, regulations, policies, procedures, and/or handbooks during January 2018 to present.

RESPONSE:

7. All documents and correspondence referring, relating, to or from Plaintiff from January 2018 to present.

RESPONSE:

8. All documents and correspondence referring, relating, to Jeremy Pratt including but not limited to performance reviews, misconduct, and peer reviews.

RESPONSE:

9. AutoNation's personnel file of Jeremy Pratt.

RESPONSE:

10. All documents which refer or relate to an agreement between [REDACTED] and AutoNation including but not limited to drafts, emails and correspondence discussing such agreements.

RESPONSE: