

CAUSE NO. 17-8460-421

JESSICA VIDRINE	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
v.	§	431st JUDICIAL DISTRICT
	§	
RYAN DANIEL	§	
Defendant.	§	DENTON COUNTY, TEXAS

**PLAINTIFF'S FIRST AMENDED PETITION AND
APPLICATION FOR TEMPORARY RESTRAINING ORDER**

I. DISCOVERY CONTROL PLAN AND LOCAL RULE DISCLOSURE

1.1 Discovery in this case is intended to be conducted under level 2 of rule 190 of the Texas Rules of Civil Procedure. Plaintiff seeks damages in the amount of \$100,000.00 or less plus non-monetary relief.

II. PARTIES

2.1 Plaintiff is Jessica Vidrine ("Plaintiff"), an individual, whose address is 9020 Eastwood Avenue, Crossroads, TX 76227.

2.2 Defendant, Ryan Daniel ("Defendant"), an individual, may be served with process at 2650 E. State Highway 121, The Colony, TX 75056, or wherever he may be found.

2.3 Jurisdiction is appropriate in this Court because Plaintiff seeks relief that is within the jurisdictional limits of this Court.

2.4 Venue is appropriate in the district courts of Denton County, Texas because all or a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in Denton County, Texas.

III. FACTS

3.1 Defendant a dentist in private practice at D Dental located in The Colony, TX. Plaintiff was previously employed by Defendant, but this case is unrelated to that prior

employment.

- 3.2 Plaintiff is a dental assistant. After ceasing her employment with Defendant, she began working for Dr. Shia Patel (“Dr. Patel”) at Precision Smiles in Frisco, Texas.
- 3.3 On or around August 31, 2017, Plaintiff accidentally posted several pictures to Defendant began to personally undertake efforts to cause Plaintiff to be fired from her job at Precision Smiles. A copy of the electronic mail communication sent by Defendant to Plaintiff’s employer is attached hereto as Exhibit “A” and incorporated by reference herein.
- 3.4 Plaintiff has repeatedly asked Defendant to stop harassing her and interfering with her employment. Defendant has refused to do so and has continued bullying Plaintiff. A copy of the text messages send between Plaintiff and Defendant are attached hereto as Exhibit “B” and incorporated by reference herein. Plaintiff is not the only victim of Plaintiff’s abuse, as she is aware of a message sent by Defendant to another employee that read “Don’t ever threaten me. I’ll sue you into the street” and “I’ll contact your office tomorrow and see if I can get you fired for your unprofessionalism”.
- 3.5 Dr. Patel terminated Plaintiff’s employment on September 14, 2017. Dr. Patel admitted to Plaintiff that she was fired based upon interactions with Defendant. In fact, Defendant had offered to remove certain material that he had posted on social media concerning Precision Smiles if Plaintiff was terminated.

IV. CAUSES OF ACTION

- 4.1 Plaintiff incorporates paragraphs 1.1 – 3.5 above into each cause of action below by reference.

(Tortious Interference with Contract)

- 4.2 Plaintiff had a valid and existing contract with Precision Smiles for at-will employment. Contrary to popular belief, it is well settled law that a cause of action exists in Texas for tortious interference with a contract of employment terminable at will. *Sterner v. Marathon Oil Company*, 767 S.W.2d 686, 688 – 689 (Tex. 1989).
- 4.3 Defendant willfully and intentionally interfered with the contract between Plaintiff and Precision Smiles. See *supra* ¶¶ 3.3 and 3.5.
- 4.4 In this case, Defendant’s interference proximately caused actual injury to Plaintiff. See *supra* ¶ 3.5.
- 4.5 Plaintiff seeks damages from Defendant for loss of the benefits of the contract with which Defendant interfered, lost wages, mental anguish, and injury to her reputation.
- 4.6 Plaintiff also seeks recovery of exemplary damages for tortious interference. *Seelbach v. Clubb*, 7 S.W.3d 749, 756-57 (Tex. App – Texarkana 1999, pet. denied).

(Alternative Theory: Intrusion on Seclusion)

- 4.7 Defendant intentionally intruded on the Plaintiff’s solitude, seclusion or private affairs. While this tort has always included physical intrusions, it has also included non-physical intrusions such as following, spying-on, or harassing a plaintiff. *Kramer v. Downey*, 680 S.W.2d 524, 525 (Tex. App. – Dallas 1984, writ ref’d n.r.e). See *supra* ¶¶ 3.3 and 3.5.
- 4.8 This type of intrusion into ones private affairs would be highly offensive to a reasonable person.
- 4.9 The Plaintiff suffered injury as a result of Defendant’s intrusion. In this case, Plaintiff lost her job and is now unemployed. She now sues Defendant for damages. See *supra* ¶¶ 3.5 and 4.5

**V. APPLICATION FOR TEMPORARY RESTRAINING ORDER AND
INJUNCTIVE RELIEF**

5.1 Plaintiff reincorporates the allegations contained in paragraphs 1.1 –4.9 above.

(Temporary Restraining Order)

5.2 Pursuant to Tex. R. Civ. P. 680, Plaintiff requests that a temporary restraining orders be entered against Defendant. An affidavit in support of the temporary restraining order is attached hereto as Exhibit “C” and incorporated by reference herein.

5.3 The evidence contained in the affidavit demonstrates that Defendant has willfully and intentionally interfered with Plaintiff’s employment and that he is likely to continue doing so in the future. His conduct has been intentional, escalating, and desirous of creating at much harm, emotional as well as financial, to Plaintiff as possible. Unless this conduct is stopped immediately through the issuance of a temporary restraining order, Defendant will suffer immediate and irreparable injury, loss, or damage

5.4 Plaintiff is the sole provider for her two minor children. She has made all efforts to mitigate her damages by applying for unemployment benefits the day after she was terminated. However, her application for benefits has not yet been approved and she must begin her search for new employment as a dental assistant immediately. Doing so is necessary so that she will be able to provide for herself and for her children. .

5.5 The evidence attached to this Petition demonstrates that Plaintiff has a substantial likelihood of success on her claims. In addition, Plaintiff has no other adequate remedy at law for the injuries and losses which she will continue to incur in this matter if Defendant is permitted to continue disrupting her personal life.

- 5.6 The relief which Plaintiff immediately requests from this Court is that Defendant be enjoined and restrained from: (a) having any further contact with Defendant (except through her counsel in this case); (b) publishing, or causing to be published, any information concerning Defendant on the social media (or elsewhere on the Internet); and (c) making any communications concerning Defendant to an actual or prospective employer of Defendant, or causing any other person to make such communications. In short, Plaintiff is asking this Court to order Defendant to stop harassing the Plaintiff and to stop trying to get her fired.
- 5.7 Plaintiff asks that the Court set bond at no more than \$100.00. Such a bond is reasonable in light of the relief sought: compliance with such an order requires only that Defendant leave Plaintiff alone.

(Temporary Injunction)

- 5.8 Pursuant to Tex. R. Civ. P. 681-84, Plaintiff requests that Defendant be cited to appear, and following such a hearing, for the Court to enter a temporary injunction enjoining and restraining the conduct referenced in paragraph 5.6 above.
- 5.9 Plaintiff requests that the temporary injunctive relief under paragraph 5.6 begin to run at the time this Court signs a temporary restraining order (or temporary injunction) and terminate at the conclusion of this lawsuit's trial.
- 5.10 Plaintiff asks that the Court set bond at no more than \$100.00. Such a bond is reasonable in light of the relief sought: compliance with such an order requires only that Defendant leave Plaintiff alone.

(Permanent Injunction)

5.11 At the conclusion of trial, Plaintiff requests that any injunction entered as requested in paragraphs 5.1 – 5.10 above be made permanent.

VI. PRAYER

7.1 Plaintiff prays that—

- a. Defendant be cited to appear and answer;
- b. Plaintiff be granted a temporary restraining order for the relief requested in paragraphs 5.6 until a hearing on the issue can be held;
- c. That upon such hearing on the request for injunctive relief set forth above, that this Court will order, restrain, and enjoin Defendant as plead in paragraphs 5.6 and 5.8 – 5.10 above;
- d. Plaintiff be granted permanent injunctive relief against Defendant
- e. Plaintiff be granted judgment for actual damages incurred as a result of Defendant's wrongful conduct including, but not limited to, damages for loss of the benefit of her employment, lost wages, mental anguish, and injury to her reputation;
- f. Plaintiff be granted judgment for all costs of court; and
- g. Plaintiff be granted all further relief to which it may be entitled.

Respectfully submitted,

/s/ Jason Lee Van Dyke

Jason L. Van Dyke

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on Lauren Harris, attorney for Defendant, by electronic delivery prior to 5:00 p.m. local time on November 20, 2017 as allowed by Rule 21a of the Texas Rules of Civil Procedure.

/s/ Jason L. Van Dyke
JASON L. VAN DYKE

EXHIBIT “A”

EXHIBIT “B”

EXHIBIT “C”

