

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

Orlando Museum of Art, Inc.,

Plaintiff,

v.

Aaron De Groft; Pierce O'Donnell;
John Leo Mangan III, a/k/a Lee Mangan,
a/k/a Leo Mangan; William Michael Force
a/k/a Michael William Force; Taryn Burns;
Basquiat Venice Collection Group,
a California joint venture; MJL Family Trust
LLC, a Colorado limited liability company;
and Richard LiPuma,

Defendants.

Case No. 2023-CA-014410-O

ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM

The Undersigned, Aaron H. De Groft Ph.D. ("Defendant"), files this Answer to the Complaint and Demand for Jury Trial ("Complaint") and says:

1. The following paragraphs of the Complaint are admitted: None.
2. The following paragraphs of the Complaint are denied: All, most specifically the following: 1-8, 30-31, 58, 61-62, 64-66, 69-70, 81, 85-90, 95-96, 98, 104-105, 107, 110-112, 119, 121-136, 139-142, 149, 152-154, 158, 160, 164, 167-170, 172-173, 176-182, 184, 186, 188-190, 196, 198, 200, 202-203, 207-211, 215-216, 218-222, 228, 230-231, 237-269.
3. Defendant is without knowledge as to the following paragraphs of the Complaint and therefore they are denied: 12-29, 32-47, 43, 44, 48-58, 83, 100-103, 109, 171, 187, 217, 223, 224-227, 229, 232-236.

AFFIRMATIVE DEFENSES

Defendant Aaron De Groft (“Defendant”) hereby asserts and alleges the following Affirmative Defenses to the claims set forth in Plaintiff’s Complaint:

First Affirmative Defense

As and for Defendant’s First Affirmative Defense as to every Count against him, Defendant states that Plaintiff has failed to state a claim on which relief can be granted (*i.e.*, failed to state a cause of action).

Second Affirmative Defense

As and for Defendant’s Second Affirmative Defense as to every Count against him, Plaintiff’s alleged damages are speculative and not recoverable.

Third Affirmative Defense

As and for Defendant’s Third Affirmative Defense as to every Count against him, Defendants have unclean hands and are not entitled any relief.

Fourth Affirmative Defense

As and for Defendant’s Fourth Affirmative Defense as to every Count against him, Plaintiff is responsible for greater than 50 percent at fault for its own harm and therefore may not recover any damages.

Fifth Affirmative Defense

As and for Defendant's Fifth Affirmative Defense as to every Count against him, Plaintiff failed to mitigate its damages.

Sixth Affirmative Defense

As and for Defendant's Sixth Affirmative Defense as to every Count against him, Plaintiff made conclusory allegations of fraud in its Complaint and failed to plead fraudulent conduct with the requisite particularity as to each defendant.

Seventh Affirmative Defense

As and for Defendant's Seventh Affirmative Defense as to every Count against him, Plaintiff is guilty of unclean hands.

Eighth Affirmative Defense

As and for Defendant's Eighth Affirmative Defense as to every Count against him, Plaintiff has waived any entitlement to relief.

Ninth Affirmative Defense

As and for Defendant's Ninth Affirmative Defense as to every Count against him, Plaintiff is estopped from seeking any relief due to the acquiescence and approval of OMA's Board of Trustee of the exhibition of the Basquiat paintings.

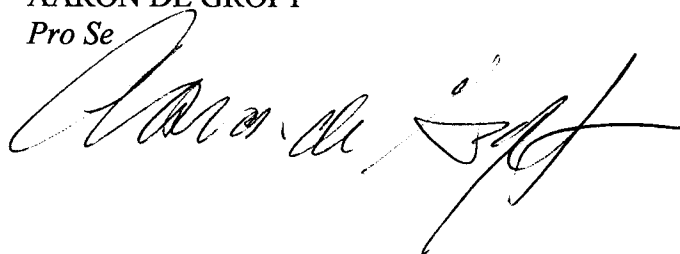
JURY TRIAL DEMAND

Defendant hereby demands a trial by jury as to all issues and matters so triable as a matter of right.

DATED: November 14, 2023

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AARON DE GROFT
Pro Se

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Aaron De Groft,

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Orlando Museum of Art, Inc.,

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COUNTERCLAIM

Defendant/Counter-Plaintiff, Aaron De Groft ("Defendant"), sues the Plaintiff/Counter-Defendant Orlando Museum of Art, Inc. ("OMA") and states as follows:

SUMMARY OF FACTS

1. OMA's lawsuit against Defendant is based on the false premise that the 25 Basquiat paintings in the exhibition *Heroes & Monsters* ("Exhibition") were fakes, Defendant actually knew they were fakes, but Defendant nonetheless represented to OMA that they were authentic because he wanted to sell them and receive a hefty sales commission from the owners. There is not a kernel of truth to this absurd allegation.

2. Defendant is a highly-regarded art historian, curator, scholar, and author with three art history degrees (including a Ph.D.) and 35 years of excellent experience in art museum management and authenticating works of art. Until Plaintiff illegally terminated him and orchestrated a concert campaign to destroy him, Defendant had a stellar reputation among his peers.

3. Defendant followed all standard professional protocols in directing the due diligence of the 25 paintings' authenticity and approving the Exhibition. The OMA decision that the 25 paintings were authentic Basquiats was not motivated by any corrupt purpose so that Defendant could personally benefit in any way. Defendant never had any agreement of any sort with the paintings' owners or anyone else to be compensated for causing OMA to exhibit their paintings and/or finding a buyer to purchase any of them. Plaintiff's allegation that he breached his fiduciary duty is a damnable and demonstrable lie.

4. Defendant's decision to mount the Exhibition was ratified several times by the Chair of OMA's Board of Trustees Cynthia Brumback, the Board of Trustees, and the lawyers from Akerman, LLP who conducted their own due diligence about the 25 paintings.

5. In July 2021, the FBI subpoenaed OMA's records concerning what information OMA had relied upon in approving the exhibition. Defendant immediately gave the subpoena to his boss Brumback who instructed Defendant and other OMA staff not to inform the Board of

Trustees about this material development. Without Board approval or knowledge, Brumback hired Akerman, LLP (“Akerman”) to represent OMA regarding the FBI investigation and to review the documents to determine if the Exhibition should proceed. As a result, the Board was completely in the dark about such an extraordinary, unprecedented, and dangerous situation. The Board should have been immediately informed by Brumback. Brumback outrageously breached her fiduciary duty in masterminding this cover-up.

6. After a thorough review of all documents and interviewing Defendant and other OMA staff, Akerman informed Defendant and Brumback that they had found nothing warranting canceling the Exhibition. Similarly, the FBI told Defendant there was no reason to pull the plug on the Exhibition. These two statements fortified Defendant’s belief that the 25 paintings were authentic Basquiats.

7. In footnote 30 of the Complaint, Akerman admits that it knew that the Board was clueless about the law firm’s retention, but it also failed to inform the Board. Akerman thus became a co-conspirator with Brumback in the coverup and flagrantly breached its fiduciary duty to OMA.

8. Akerman must recuse itself from representing OMA in this lawsuit due to its conflict of interest. Mandatory Florida legal ethics rules prohibit lawyers from serving as an advocate and witness in the same case. Disqualification is mandatory. If Akerman does not immediately withdraw, Defendant will file a motion for their disqualification.

9. OMA’s lawsuit is a transparent public relations stunt intended to save face and to wrongfully make Defendant a scapegoat for the FBI’s seizure of the 25 paintings. Defendant did his job professionally and in good faith, created a spectacular Exhibition that garnered rave reviews, set attendance records, made a substantial profit, and is not deserving of the obloquy

heaped upon him by OMA's Complaint. OMA is trying to make Defendant the fall guy by falsely branding him as a fraudster who knew that the 25 paintings—which he authenticated as genuine Basquiats—were fakes, but he concealed this fact in order to increase their value for a later sale via being exhibited at OMA. Nothing could be further from the truth.

10. At the time he approved the 25 paintings for the Exhibition, Defendant had the provenance documents showing that in 2012 the owners had purchased the paintings from Los Angeles auctioneer Michael Barzman who represented (and signed a notarized statement) that he had purchased them at auction out of the storage locker of a famous tv writer Thaddeus Q. Mumford, Jr. who had purchased them from Basquiat in 1982 and put them in the storage locker. Defendant also had three written opinions from leading Basquiat experts stating that the 25 paintings were authentic and some were among his best works.

11. During his tenure, Defendant served with distinction as OMA's Director and Chief Executive Officer. He arranged to bring world class exhibitions to OMA, including Old Masters. Defendant improved the museum's fundraising program, attracted sponsors, and raised the museum's profile in the community and art world. Defendant brought energy, excitement, and excellence to this financially-struggling, lackluster institution. Defendant was putting OMA on the art world map.

12. Plaintiff summarily terminated Defendant immediately after the FBI seized the 25 paintings off OMA's walls in June 2022. Defendant was given no opportunity to defend himself and was never furnished with the reasons for his abrupt firing. The evidence will show that his termination was wrongful.

13. Defendant's conclusion that the 25 Basquiats are authentic will be proven at trial, thereby dealing a much-deserved, fatal blow to OMA's lawsuit and exposing Plaintiff to tens of

millions of dollars for its outrageous treatment of Defendant and deliberately trashing his excellent reputation. Acts have consequences, and intentionally malicious acts are punished harshly. An Orlando jury will teach OMA a lesson that it will never forget.

JURISDICTION, PARTIES, AND VENUE

14. This is an action for damages in excess of \$50,000, exclusive of costs, interest, and attorney's fees. This Court thus has subject matter jurisdiction over this matter under § 26.012, Fla. Stat.

15. Defendant is a citizen of Florida.

16. Orlando Museum of Art, Inc. ("OMA") is a Florida 501(c)(3) nonprofit corporation located in Orlando, Florida.

17. This Court has personal jurisdiction over OMA under § 48.193(2), Fla. Stat., as well as under § 48.193(1)(a)(2), Fla. Stat., because OMA is a resident of Florida, engaged in substantial and not isolated activity in Florida, and committed tortious acts in Florida.

18. The exercise of personal jurisdiction over OMA also satisfies the requirements of federal due process because OMA has its principal place of business in Orlando, Florida.

19. Venue is proper under § 47.011, Fla. Stat., because OMA is a resident of Orange County, Florida, and because Defendant/Counter-Plaintiff De Groft's causes of action accrued in Orange County, Florida.

20. All conditions precedent to this action have occurred, have been satisfied, or have been waived.

CLAIMS FOR RELIEF

COUNT I

(Wrongful Termination)

21. Defendant realleges and incorporates by reference the allegations set forth in Paragraphs 1 through 20.

22. Defendant was wrongfully terminated for an illegal purpose, namely, as part of a cover-up by Board of Trustees Chair Brumback, OMA's authorized agent, and OMA. Running for cover from the unfavorable publicity generated by the FBI's seizure of the 25 paintings, OMA made Defendant a scapegoat to take the blame for the actions of Brumback and the Board of Trustees in approving the Exhibition.

23. Defendant was also wrongfully terminated for allegedly approving the 25 paintings as authentic Basquiats when some erroneously claimed them to not be authentic. Defendant was given no opportunity to present all the favorable evidence demonstrating their authenticity. That proof is ironclad. Had the Board of Trustees seen this evidence, it would not have authorized his termination.

24. As a direct consequence of Defendant's wrongful termination, Defendant has been deprived of his contractual compensation and bonuses, suffered irreparable injury to his reputation from all the adverse publicity about his termination, and is unable to secure employment in the art world or anywhere else.

25. Defendant has suffered substantial actual damages due to Plaintiff's wrongful termination of him.

WHEREFORE, Defendant asks this Court to enter a judgment:

a. Awarding compensatory damages in an amount to be proven at trial.

b. Awarding such other and further relief as the Court deems appropriate

COUNT II
(Defamation)

26. Defendant realleges and incorporates by reference the allegations set forth in Paragraphs 1 through 25.

27. Through its employees and authorized agents, OMA has defamed Defendant by falsely stating on numerous occasions that he approved the Exhibition for the fraudulent purpose of obtaining personal financial gain from the later sale of the 25 paintings whose legitimacy and value would be enhanced by a museum exhibiting them.

28. Through its employees and authorized agents, OMA has also defamed Defendant by falsely stating on numerous occasions that he incompetently authenticated obvious fakes as authentic Basquiat paintings. In truth, Defendant faithfully adhered to accepted protocols for authenticating art works, and he was correct in finding them to be authentic.

29. Through its employees and authorized agents, OMA has further defamed Defendant by falsely stating on numerous occasions that he was a co-conspirator with the 25 paintings' owners in a conspiracy to have OMA exhibit their paintings and to work with them to sell them and be compensated for his illicit efforts. This wild allegation is the product of OMA's desperation to point the finger at others and to deflect public and media attention away from it.

30. At the time of making these defamatory statements, OMA knew that they were false, was reckless with regard to their truth or falsity, or was negligent with regard to their truth or falsity. OMA has absolutely no evidence to support its outrageous allegations.

31. As a direct consequence of OMA's defamatory statements, Defendant has suffered substantial actual damages due to sullyng his reputation, casting aspersions on his professionalism, and impugning his integrity.

WHEREFORE, Defendant asks this Court to enter a judgment:

- a. Awarding compensatory damages in an amount to be proven at trial.
- b. Awarding such other and further relief as the Court deems appropriate.

COUNT III
(Breach of Contract)

32. Defendant realleges and incorporates by reference the allegations set forth in Paragraphs 1 through 31.

33. By virtue of executing Defendant's employment agreement, OMA and Defendant entered into a valid, binding contract.

34. OMA materially breached the contract by terminating Defendant.

35. As a direct consequence of OMA's breach of contract, Plaintiff owes Defendant his lost wages and bonuses.

WHEREFORE, Defendant asks this Court to enter a judgment:

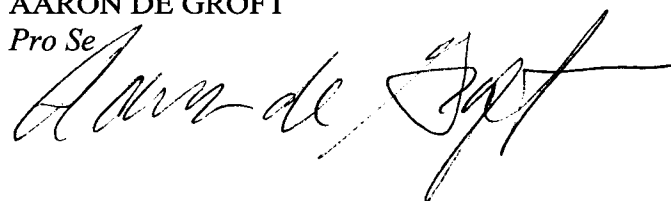
- a. Awarding compensatory damages in an amount to be proven at trial.
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JURY TRIAL DEMAND

Defendant hereby demands a trial by jury as to all issues and matters so triable as a matter of right. DATED: November 14, 2023




AARON DE GROFT
 Pro Se



CERTIFICATE OF SERVICE

I hereby certify that a true copy of this Answer, Affirmative Defenses, and Counterclaim was mailed and emailed to the person listed below on November 14, 2023.



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