

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

Case No.: 20-CV-81455-RAR

RYAN ALLISON, an individual,)
)
)
Plaintiff,)
)
vs.)
)
APPLE, INC., a California Corporation, and,)
SECURITY INDUSTRY SPECIALISTS INC.,)
a California Corporation,)
)
)
Defendants.)

ANSWER AND AFFIRMATIVE DEFENSES OF APPLE, INC. AND SECURITY INDUSTRY SPECIALISTS, INC. TO AMENDED COMPLAINT

The Defendants, APPLE, INC. and SECURITY INDUSTRY SPECIALISTS, INC., through undersigned counsel, hereby file this their answer to the Amended Complaint, and state as follows:

1. Defendants are without knowledge of Plaintiff’s alleged citizenship.
2. Apple Inc, (hereafter “Apple”) admits that it is a California corporation.
3. Security Industry Specialists, Inc. (hereafter “SIS”) admits that it is a California corporation.
4. SIS denies that it is liable to Plaintiff and specifically denies that it or its employees or agents committed torts against the Plaintiff.
5. SIS admits the allegations of Paragraph 5 of the Amended Complaint.

6. SIS admits only that its security guard(s) acted within the course and scope of their duties and in furtherance of the business interests of SIS and its client, Apple.

7. To the extent SIS denies any tortious act committed by its guard(s), the Defendant denies the allegations of Paragraph 7 of the Amended Complaint.

8. Apple denies liability for the tortious acts, if any, of security guards who were not employed by Apple.

9. Defendants deny that security guards were employed by Apple and therefore must deny the allegations of Paragraph 9.

10. Defendants admit only that SIS's security guard(s) was/were acting in the furtherance of the business interests of Apple, Inc.

11. SIS admits only that it employed the security guard(s) but denies any inference or suggestion of liability for the tortious conduct alleged.

12. Paragraph 12 is a legal conclusion and not an allegation of fact and therefore must be denied.

13. Admitted.

14. Admitted.

15. Admitted.

16. Denied. Defendants deny the allegations of Paragraphs 16-40, and demand strict proof thereof.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

COUNT I

41. Paragraph 41 is a re-allegation required no affirmative response.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

COUNT II

46. Paragraph 46 is a re-allegation requiring no affirmative response.

47. Defendants admit that the security guard(s) intended to and did touch the Plaintiff.

48. Defendants are without knowledge.

49. Denied.

COUNT III

50. Paragraph 50 is a re-allegation requiring no affirmative response.

51. Denied.

52. Defendants are without knowledge.

53. Defendants are without knowledge.

54. Denied.

COUNT IV

55. Paragraph 55 is a re-allegation requiring no affirmative response.

56. Denied.

57. Denied.

AFFIRMATIVE DEFENSES

FIRST: As to the claims of civil assault and battery, the Plaintiff fails to state a cause of action upon which relief may be granted to the extent that the “intentional” acts complained of lack the requisite degree of intent to deliberately bring about harm or to cause injury to the Plaintiff, there being no suggestion or allegation that the emotional or physical harm complained of was substantially certain to follow the allegedly intentional acts of the security guard(s).

SECOND: As to the claim of intentional infliction of emotional distress, the claim lacks the requisite amount of severity of the injury, without which the claim is and should be barred.

THIRD: As to the claim of false imprisonment, the guard(s) at all times material, acted with probable cause, in reliance upon the suspicious actions, movements, and demeanor of the Plaintiff while he was in the store and also upon the statement of a retail clerk/sales associate, however mistaken, indicating that the item in question had not been paid for by the Plaintiff. On such evidence, the security guard acted in accordance with an assumed legal right, based on his duties and training to reasonably apprehend and detain the Plaintiff for further inquiry and/or investigation.

FOURTH: The damages claimed by the Plaintiff are *de minimis* and do not rise to the level where they would support claims for intentional infliction of mental distress or civil assault and/or battery.

FIFTH: Alternatively, and to the extent that any tort was committed by the security guard(s) in question, such acts were committed by mistake in the bona fide assertion of a supposed right, but absent any element of malicious motive or recklessness, deliberation or wrong intent.

SIXTH: Plaintiff fails to state a claim for the imposition of punitive damages, inasmuch as the security guard(s) in question acted on a bona fide supposed legal right, based upon information from sales associate, mistaken as it were, but without recklessness, wantonness, deliberation or wrong intent. As such, the prayer for punitive damages should be stricken.

WHEREFORE, having fully answered the Amended Complaint, the Defendants respectfully request that the Court enter an order dismissing this action or enter judgment in favor of the Defendants, herein, together with an award of costs incurred.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues.

CERTIFICATE OF SERVICE

WE CERTIFY that a copy of the foregoing was filed this 23rd day of December, 2020 with the Clerk of Court using CM/ECF and that a copy of the foregoing document was also served via transmission of Notice of Electronic Filing upon the parties listed on the attached service list.

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