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RACHEL DANAE VACHATA

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF SANTA CLARA

11 RACHEL DANAE VACHATA,

Case No. 18CV323454

12 Plaintiff,

13 vs.

COMPLAINT FOR DAMAGES

14 LUCIO LANZA,

JURY TRIAL DEMANDED

15 Defendant.
16 _____ /

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18 RACHEL DANAE VACHATA complains and alleges as follows:

19 **NATURE OF THE CASE**

20 1. Lucio Lanza sexually assaulted Danae Vachata on a red-eye commercial flight
21 from San Francisco. Lanza is a 73 year-old prominent Silicon Valley venture capitalist; Ms.
22 Vachata is a 29 year-old co-founder of technology companies and is on the *Forbes* “30 Under 30
23 in Healthcare” list for 2018. When Lanza learned that Ms. Vachata was co-founder of a
24 technology start-up company, he preyed on her by threatening that he could use his position as a
25 powerful venture capitalist to make or break her company. Lanza then groped Ms. Vachata
26 repeatedly, grabbing her arm, crotch, and breast, attempting to kiss her, and inserting his hand
27 between her legs. Ms. Vachata was shocked and horrified by Lanza’s assault, which she
28 attempted to stop. Immediately afterward, she reported the assault to a nearby passenger, who

1 was an off-duty pilot. She also reported the assault to airline authorities and to law enforcement.
2 On her connecting flight shortly thereafter, Ms. Vachata suffered an anxiety attack and lost
3 consciousness on the plane due to the stress and humiliation of Lanza’s actions. Medical
4 personnel attended to her when her flight landed. Through this lawsuit, Ms. Vachata seeks to
5 hold Lanza accountable for his reprehensible and illegal acts, including seeking damages for her
6 emotional distress and punitive damages.

7 **PARTIES AND VENUE**

8 2. Plaintiff Rachel Danae Vachata (she commonly uses “Danae” as her first name)
9 was a co-founder and Chief Operating Officer of an early-stage medical device company.

10 3. Plaintiff is informed and believes and thereon alleges that Defendant Lucio Lanza
11 is and, at all relevant times mentioned herein, was an individual residing in the County of Santa
12 Clara, California. Plaintiff further alleges on information and belief that Defendant is Managing
13 Director of Lanza Tech Ventures, an investment firm that is located in Palo Alto, California.

14 4. This Court has jurisdiction over Defendant and venue is proper in this Court
15 pursuant to California Code of Civil Procedure section 395. As alleged herein, Defendant lives
16 and works in the County of Santa Clara, State of California.

17 **FACTS COMMON TO ALL CAUSES OF ACTION**

18 5. Ms. Vachata is an entrepreneur who co-founded two companies. She was named
19 to *Forbes’* “30 Under 30 in Healthcare” list for 2018. She frequently traveled between San
20 Francisco and Chicago for work.

21 6. On July 28, 2017, Ms. Vachata boarded an overnight “redeye” flight from San
22 Francisco to Minneapolis, Minnesota on her way to Chicago, her final destination. The flight
23 was scheduled to take off after midnight and land around 6:00 a.m. local time.

24 7. Prior to boarding the flight, Ms. Vachata attempted to send a work email attaching
25 a video of her company’s product. As she proceeded to her assigned seat on the plane, she
26 carried her laptop open, with the video displayed on the screen. As soon as she sat down, she
27 hurried to upload the video to email before take-off.

28 8. Defendant Lanza, who was seated next to Ms. Vachata, saw the video and

1 company logo. He began asking her questions about her role in the company and the technology.
2 He also asked her questions about where she lived and where she was flying. While the
3 conversation was comprised of innocuous-seeming small talk, Ms. Vachata noticed that
4 Defendant smelled of alcohol.

5 9. Before takeoff, a flight attendant approached Defendant and stated that he was
6 sitting in the wrong seat and that he would need to move to a different seat. Defendant was
7 seated in the aisle seat of a three-seat row, with Ms. Vachata seated next to him in the middle
8 seat. The window seat was occupied by someone who appeared to be sleeping. Defendant
9 requested to remain in his seat next to Ms. Vachata. The flight attendant insisted that he move,
10 stating that the seat belonged to someone else. As Defendant was leaving his seat, he asked Ms.
11 Vachata what kind of drink she would like. She declined the offer.

12 10. Defendant moved to a different seat. The seat next to Ms. Vachata was then
13 occupied by an off-duty pilot. After the plane took off, the cabin lights were dimmed and
14 remained that way for the duration of the flight.

15 11. After takeoff, Defendant returned to the row where Ms. Vachata was seated. He
16 stood in the aisle, staring at Ms. Vachata and the pilot in the seat next to her, but said nothing. It
17 appeared that Defendant was having difficulty standing in the aisle. Because Defendant was
18 staring at her, Ms. Vachata asked him whether he needed assistance with obtaining his luggage
19 from the overhead bin. Defendant responded no. He then proceeded to bend over the airplane
20 seat to talk to Ms. Vachata and the pilot. It was apparent to Ms. Vachata that Defendant was
21 intoxicated, as he was slurring words, repeating half sentences, and propping himself up on the
22 seats. Defendant said that he was close friends with Steve Jobs and talked at length about his
23 work at Intel and his investments.

24 12. The pilot informed Defendant that he should not stand in the aisle for an extended
25 period of time. He requested that Defendant return to his seat, which Defendant did.

26 13. Shortly thereafter, Defendant returned with a glass of vodka, which he handed to
27 Ms. Vachata. Ms. Vachata accepted the glass and took one sip. Defendant continued to talk to
28 Ms. Vachata and the pilot, leaning over the airplane seat and slurring his words. He spoke

1 primarily about his connections, careers, companies, and properties. The pilot again requested
2 that Defendant return to his seat, which he did. Ms. Vachata discarded the glass of vodka and
3 obtained a glass of sparkling water.

4 14. Defendant again returned to Ms. Vachata’s row. He spoke briefly with the pilot,
5 who asked if Defendant just wanted to switch seats. Defendant agreed. He then sat in the seat
6 next to Ms. Vachata.

7 15. Defendant began talking about his work again, but quickly became physical with
8 Ms. Vachata. He grabbed her by her arm and pulled her in closer to him and repeatedly said he
9 was so pleased to finally be sitting next to Ms. Vachata. He continued to pull on Ms. Vachata’s
10 arm to draw her closer to him. He then grabbed her right breast. Ms. Vachata pushed away
11 Defendant’s hand from her breast, but Defendant became even more physically aggressive.
12 Defendant grabbed her arm again and attempted to kiss Ms. Vachata on her cheek and mouth.
13 Ms. Vachata reared back and put her arm up to block him. Defendant continued to keep pulling
14 her arm and trying to kiss her. Ms. Vachata continued to attempt to block his assault with her
15 free arm, putting her hand in his face and saying “no” and “stop.”

16 16. Throughout the assault, Defendant went on about his power in the industry in
17 which Ms. Vachata works and how he has the capability to “make or break” her career. He stated
18 that he was interested in investing in her company, as he had similarly done in his son’s
19 company. Ms. Vachata tried to end the conversation.

20 17. Defendant then inserted his hand in Ms. Vachata’s crotch area and tried to push
21 his hand up between her legs around her vaginal area. Defendant kept his hand in Ms. Vachata’s
22 crotch area as he continued to talk at Ms. Vachata in his drunken state. Ms. Vachata was in a
23 state of shock as Defendant continued his assault.

24 18. At no point did Ms. Vachata consent to Defendant’s physical assault, much less
25 any form of sexual contact. Throughout the ordeal, Ms. Vachata was humiliated and horrified by
26 Defendant’s conduct. In the dark plane, she felt trapped in her seat by Defendant and unable to
27 make him stop.

28 19. After about 30 to 45 minutes of this assault, when the plane was beginning its

1 descent, Defendant saw the pilot returning to his seat next to Ms. Vachata. Defendant removed
2 his hand from her crotch area and re-adjusted himself so that he was no longer in close proximity
3 to Ms. Vachata.

4 20. After the off-duty pilot had resumed his seat next to Ms. Vachata, she immediately
5 told him what Defendant had just done to her. She told him that Defendant had touched her and
6 tried to kiss her. She was terrified about Defendant's ability to follow her to her gate and
7 potentially find out where she lived in Chicago. She asked the pilot to whom she should report
8 the incident. The pilot responded that she could alert the airline once she got to her next gate and
9 said that he would walk her to her gate. He also noted that there were several empty glasses of
10 alcoholic drinks in Defendant's seat.

11 21. When Ms. Vachata exited the plane, Defendant was waiting for her at the gate and
12 attempted to engage her in conversation. Ms. Vachata rushed by, telling Defendant that she was
13 late for her next flight. Defendant offered his business card, which Ms. Vachata quickly took as
14 she continued with the pilot through the terminal to her next gate.

15 22. When she arrived at the gate of her next flight, a short connecting flight to
16 Chicago, Ms. Vachata asked the gate attendant to be placed in a seat where she would not have to
17 sit next to a male passenger. The gate attendant stated that they could not accommodate her
18 request. Ms. Vachata explained that she was just sexually assaulted on her previous flight, which
19 was why she was making the request. The gate attendant replied that he needed to inform his
20 supervisor of the incident. The supervisor arrived at the gate and asked Ms. Vachata to describe
21 in detail what happened on the previous flight. She also asked for Defendant's name and
22 information to look him up in their system.

23 23. After looking into Defendant's profile, the supervisor informed Ms. Vachata that
24 Defendant is a platinum member with the airline, which was likely why he was not forced to stay
25 in his original assigned seat and was not cut off from being over-served alcoholic beverages.

26 24. Ms. Vachata asked the supervisor what steps she should take to alert the proper
27 authorities of the incident. The supervisor stated that the incident had been recorded by the
28 company and that someone from corporate would reach out to her that day. The supervisor asked

1 Ms. Vachata if she would like to take a later flight to Chicago. Ms. Vachata declined, stating that
2 the best thing for her to do was to go to Chicago and be around someone she trusts.

3 25. After concluding her conversation with the supervisor, Ms. Vachata called a close
4 personal friend to inform her that she was just sexually assaulted and needed her friend to pick
5 her up from Chicago O’Hare Airport when she landed.

6 26. As she was boarding her flight to Chicago, Ms. Vachata called her co-founder at
7 her company, and described to him what had happened with Defendant. She stated that she
8 wanted to press charges against Defendant.

9 27. A woman in the seat in front of Ms. Vachata had overheard Ms. Vachata’s
10 conversation with the co-founder. She said she was sorry for the trauma Ms. Vachata had just
11 experienced.

12 28. Ms. Vachata began to hyperventilate from the intense stress of the situation. She
13 bent forward in her seat and lost consciousness. She came to as several flight attendants were
14 leaning her seat back and trying to give her oxygen. It took Ms. Vachata several minutes to fully
15 return to consciousness and gather her faculties.

16 29. The flight attendants spoke with Ms. Vachata about grounding the flight but, after
17 speaking with the pilots, informed her that they would land at O’Hare Airport as scheduled since
18 the flight was a short 45 minutes. Ms. Vachata replied that she did not want to ground the flight
19 and wanted to get to Chicago as soon as possible to meet her friend, who was picking her up from
20 the airport. Ms. Vachata explained that she had experienced a post-traumatic stress disorder
21 (“PTSD”) episode but that she did not need medical assistance.

22 30. When the flight landed, Ms. Vachata was escorted off the plane first and taken to
23 waiting Emergency Medical Services personnel at the gate to be examined and medically cleared.
24 Ms. Vachata informed them that she had just been sexually assaulted on an earlier flight, which
25 caused her to experience a PTSD episode. She declined further medical care and signed the
26 paperwork for her clearance.

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FIRST CAUSE OF ACTION

(Sexual Battery in violation of California Civil Code § 1708.5)

31. Plaintiff hereby incorporates by reference paragraphs 1 through 30 of this Complaint as if fully set forth herein, and for a cause of action alleges as follows:

32. California Civil Code section 1708.5 provides that:

(a) A person commits a sexual battery who does any of the following:

(1) Acts with the intent to cause a harmful or offensive contact with an intimate part of another, and a sexually offensive contact with that person directly or indirectly results.

(2) Acts with the intent to cause a harmful or offensive contact with another by use of his or her intimate part, and a sexually offensive contact with that person directly or indirectly results.

(3) Acts to cause an imminent apprehension of the conduct described in paragraph (1) or (2), and a sexually offensive contact with that person directly or indirectly results.

33. Plaintiff alleges that Defendant Lanza committed the act of civil sexual battery in violation of California Civil Code section 1708.5 when, as described above, Defendant willfully, maliciously, intentionally and without the consent of Plaintiff subjected her to harmful and/or offensive touching of Plaintiff’s breast, vagina, and upper thighs.

34. As a direct, foreseeable, and proximate result of Defendant’s unlawful actions, Plaintiff has suffered physical injury, pain, and suffering and continues to suffer severe emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to Plaintiff’s damage in an amount to be proven at the time of trial.

35. Defendant committed the aforementioned acts despicably, maliciously, and willfully, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of the rights and safety of Plaintiff. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

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SECOND CAUSE OF ACTION

(Battery)

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36. Plaintiff alleges and incorporates herein by reference paragraphs 1 through 30 above as if fully set forth herein.

37. On July 28, 2017, Defendant intentionally and unlawfully engaged in harmful and/or offensive contact with Plaintiff’s person, including touching of Plaintiff’s arm, breast, vagina, and thighs.

38. By engaging in the conduct alleged herein, Defendant intended to cause physical harm or offensive touching to Plaintiff.

39. As a result of Defendant’s acts, Plaintiff was physically harmed and/or experienced offensive contact with her person. Plaintiff did not consent to any of this contact.

40. As a direct, foreseeable, and proximate result of Defendant’s unlawful actions, Plaintiff has suffered physical injury, pain, and suffering and continues to suffer severe emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to Plaintiff’s damage in an amount to be proven at the time of trial.

41. Defendant committed the acts herein despicably, maliciously, and willfully, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of the rights and safety of Plaintiff. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

THIRD CAUSE OF ACTION

(Gender Violence in violation of California Civil Code § 52.4)

42. Plaintiff alleges and incorporates herein by reference paragraphs 1 through 30 above as if fully set forth herein.

43. Defendant’s acts committed against Plaintiff, as alleged herein, including the unwanted, offensive, and repeated sexual contact, constitute gender violence and a form of sex discrimination in that one or more of Defendant’s acts would constitute a criminal offense under state law that has as an element the use, attempted use or threatened use of physical force against the person or property of another, committed at least in part based on the gender of the victim,

1 whether or not those acts have resulted in criminal complaints, charges, prosecution, or
2 conviction.

3 44. Defendant's acts committed against Plaintiff, as alleged herein, including the
4 unwanted, offensive, and repeated sexual contact, constitute gender violence and a form of sex
5 discrimination in that Defendant's conduct constituted a physical intrusion or physical invasion
6 of a sexual nature under coercive conditions, whether or not those acts have resulted in criminal
7 complaints, charges, prosecution, or conviction.

8 45. As a direct, foreseeable, and proximate result proximate result of Defendant's
9 unlawful actions, Plaintiff has suffered physical injury, pain, and suffering and continues to suffer
10 severe emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to
11 Plaintiff's damage in an amount to be proven at the time of trial.

12 46. Defendant committed the acts herein despicably, maliciously, and willfully, with
13 the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to
14 malice, and in conscious disregard of the rights and safety of Plaintiff. Plaintiff is thus entitled to
15 recover punitive damages from Defendant in an amount according to proof.

16 47. Accordingly, Plaintiff is entitled to compensatory damages, punitive damages,
17 injunctive relief, and/or any other appropriate relief pursuant to Civil Code section 3294 and
18 Civil Code section 53. Plaintiff is also entitled to an award of attorney's fees and costs pursuant
19 to Civil Code section 52.4.

20 **FOURTH CAUSE OF ACTION**

21 **(Intentional Infliction of Emotional Distress)**

22 48. Plaintiff alleges and incorporates herein by reference paragraphs 1 through 30
23 above as if fully set forth herein.

24 49. Defendant's conduct, as described above, was extreme and outrageous and beyond
25 the bounds of decency tolerated in a civilized society.

26 50. Defendant's actions were done with the intent to cause serious emotional distress
27 or with reckless disregard of the probability of causing Plaintiff serious emotional distress.

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51. As a proximate result of the intentional, extreme, and outrageous conduct of Defendant, including the unwanted, offensive, and repeated sexual contact, Plaintiff has suffered physical injury, pain, and suffering and continues to suffer severe emotional distress, including shame, anxiety, embarrassment, stress, and indignity, all to Plaintiff's damage in an amount to be proven at the time of trial.

52. Defendant committed the acts herein despicably, maliciously, and willfully, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of the rights and safety of Plaintiff. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.


PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. For compensatory damages, including but not limited to damages resulting from Plaintiff's emotional distress, in an amount to be determined at trial and as allowed by law;
2. For punitive and exemplary damages as allowed by law;
3. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's fees;
4. For statutory fees, as allowed by law;
5. For prejudgment interest and post-judgment interest as allowed by law;
6. For injunctive relief; and,
7. For an award of such other and further relief as the Court deems just and proper.

DATED: February 14, 2018

RUDY, EXELROD, ZIEFF & LOWE, LLP

By: 
DAVID A. LOWE
Attorneys for Plaintiff
DANAE VACHATA

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JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury.

DATED: February 14, 2018

RUDY, EXELROD, ZIEFF & LOWE, LLP

By: 

DAVID A. LOWE
Attorneys for Plaintiff

DANAE VACHATA