

CAUSE NO. 141-307474-19**VICTOR MIGNOGNA,**
Plaintiff,

v.

**FUNIMATION PRODUCTIONS, LLC,
JAMIE MARCHI, MONICA RIAL AND
RONALD TOYE**
Defendants.§
§
§
§
§
§
§
§**IN THE DISTRICT COURT****141ST JUDICIAL DISTRICT****TARRANT COUNTY, TEXAS****DEFENDANT JAMIE MARCHI'S ORIGINAL ANSWER****TO THE HONORABLE JUDGE OF SAID COURT:**

COMES NOW, JAMIE MARCHI ("Defendant"), Defendant in the above-styled and numbered cause, and files this Original Answer, and would respectfully show the Court the following:

I. GENERAL DENIAL

1. Defendant generally denies each and every, all and singular, the material allegations contained in the Plaintiff's Original Petition and any amendments and/or supplements thereto and, being allegations of fact, demands that the Plaintiff be required to prove such allegations by the requisite standard of proof, if the Plaintiff can so do.

II. AFFIRMATIVE DEFENSES

2. Strictly in the alternative and by way of affirmative defense, Defendant asserts a qualified privilege to any alleged statements made the basis of the Plaintiff's claims, including but not limited to the fact that any matters allegedly addressed were of public and/or private importance, were made in good faith and without malice, on a subject in which the Defendant and any recipients had an interest or duty.

3. Strictly in the alternative and by way of affirmative defense, Defendant asserts that she committed no act and/or omission which would justify any claims for exemplary or punitive damages. Defendant would show that Plaintiff's claims for exemplary and/or punitive damages are in violation of Defendant's rights under the 1st, 5th, 8th, and 14th Amendments to the United States Constitution and Article I, Sections 3, 8, and 19 of the Texas Constitution, in that such claims are arbitrary, unreasonable, excessive, and in violation of Defendant's rights to due process of law and equal protection under the law. Defendant further submits that due process requires any such claims for exemplary or punitive damages to be proved beyond a reasonable doubt under the 6th Amendment of the United States Constitution. Additionally, the assessment of punitive damages, a remedy that is essentially criminal in nature, without safeguards greater than those afforded by the *Texas Rules of Civil Procedure* and the law of this State constitute the infliction of a criminal penalty without the necessary safeguards guaranteed by the 1st, 5th, 6th, 8th, and 14th Amendments to the United States Constitution. Defendant would assert all limitations and application of Chapter 41 of the *Texas Civil Practice and Remedies Code*.

4. Strictly in the alternative and by way of affirmative defense, Defendant asserts the truth/substantial truth of any alleged statements made the basis of Plaintiff's claims.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by this suit and that Defendant go hence without delay and recover all costs expended in Defendant's behalf. Praying further, Defendant prays for such other and further relief, either at law or in equity, to which Defendant may be justly entitled.

Respectfully submitted,

JOHNSON & SPARKS PLLC

By: 

SAMUEL H. JOHNSON

State Bar No. 24065507

7161 Bishop Road, Suite 220

Plano, Texas 75024

972.918.5274 (phone/fax)

sam@johnsonsparks.com

ATTORNEY FOR DEFENDANT JAMIE MARCHI

CERTIFICATE OF SERVICE

The undersigned does hereby certify that, in accordance with Rule 21a of the *Texas Rules of Civil Procedure*, a true and correct copy of the above and foregoing has been forwarded to all counsel of record on May 31, 2019.


Samuel H. Johnson