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8
9 DISTRICT COURT
10 CLARK COUNTY, NEVADA

11 CHARLES “RANDY” LAZER,
12 Plaintiff,
13 vs.
14 DAPHNE WILLIAMS,
15 Defendant.

CASE NO.: A-19-797156-C
DEPT NO.: XV

**PLAINTIFF CHARLES “RANDY”
LAZER’S FIRST AMENDED COMPLAINT**

16 Plaintiff Charles “Randy” Lazer, by and through its attorney, the Law Offices of Michael F. Bohn,
17 Esq., Ltd., hereby alleges as follows:

- 18 1. Plaintiff is a licensed Nevada real estate agent and has been so licensed since 1991.
19 2. In the spring of 2017, plaintiff was representing Rosane Krupp, the seller of the real property
20 commonly known as 1404 Kilimanjaro Ln #202, Las Vegas, Nevada 89128 (hereinafter “**the property**”),
21 which is a condominium unit.
22 3. On May 20, 2017, defendant Daphne Williams, at the time a tenant renting the property,
23 entered into a contract to purchase the property from the seller.
24 4 Defendant did not employ a real estate agent to represent her in the purchase.
25 5. The original close of escrow date for the sale of the property to defendant was June 30, 2017.
26 6. On June 23, 2017, plaintiff learned defendant’s lender had, just that day, obtained the
27 condominium certification package, also known as a condominium questionnaire, which is a requirement
28

1 to obtain financing for a condominium purchase.

2 7. Defendant's lender informed plaintiff that the reason for the delay in obtaining the
3 condominium questionnaire was because defendant neglected to pay for the questionnaire in a timely
4 manner.

5 8. As part of the sale of a condominium, a lender requires certain information, which is obtained
6 by way of a condominium certification package, also known as a condo questionnaire.

7 9. The condo questionnaire is a document filled out by a representative of the condo's
8 homeowner association and provides information such as what percentage of the units in the association
9 are owner-occupied versus renter-occupied; whether the condo association is currently involved in
10 litigation; what percentage of the units are delinquent in their HOA dues; and the financial health of the
11 HOA, such as whether it is meeting its reserve requirements.

12 10. If the figures provided in the condo questionnaire do not meet certain requirements, the lender
13 may refuse to provide financing for a condo purchase.

14 11. Because defendant was financing the purchase of the property, defendant and/or her lender
15 needed to obtain the condo questionnaire in order to obtain approval for a loan.

16 12. Defendant's lender, Bryan Jolly at Alterra Home Loans, received the fully executed contract
17 on May 23, 2017, more than a month prior to the June 30, 2017, close of escrow date.

18 13. However, Mr. Jolly did not receive the condo questionnaire until June 23, 2017.

19 14. Mr. Jolly disclosed to plaintiff that the reason for the delay in obtaining the condo
20 questionnaire was because defendant neglected to pay for the questionnaire in a timely manner.
21

22 15. Defendant's delay in obtaining the condo questionnaire ultimately delayed the close of the
23 deal for 24 days.
24

25 16. During the negotiation of defendant's purchase, plaintiff and the seller granted defendant
26 three extensions of the close of escrow in order for defendant's lender to review the condo questionnaire
27 and perform its analysis to determine whether it would finance defendant's purchase.

28 17. Plaintiff first became aware of the delay in obtaining the condo questionnaire as a result of
Mr. Jolly's June 23, 2017, email.

1 18. Following this email, plaintiff spoke with defendant to inform her that it would be necessary
2 to extend escrow due to her and/or her lender's failure to obtain the condo questionnaire until June 23,
3 2017.

4 19. After the June 23, 2017, phone call between plaintiff and defendant, defendant became
5 agitated and defensive, which started the chain of events that eventually led to her accusing plaintiff of
6 racism and sexism in her Nevada Real Estate Division ("NRED") "Statement of Fact" and, in turn, this
7 lawsuit.

8 20. On June 27, 2017, defendant sent a text message to plaintiff as follows:
9

10 Randy if this racist, sexi~~est~~ [sic - sexist] and unprofessional behavior of yours continues,
11 and Rosane [the seller] and I aren't able to close this deal, you will leave me with no other
12 remedy than to file a complaint with the Nevada Board of Realtors and HUD against you
and your broker for your unethical and unprofessional behavior as noted in the emails and
text messages you have sent during this process.

13 21. Defendant's very serious allegations that plaintiff is racist, sexist, unprofessional, and
14 unethical are based on plaintiff's alleged statement that he thinks the defendant will be successful in the
15 future and that plaintiff would like to represent defendant in any future real estate transactions.

16 22. Due to defendant's delay in paying for the condo questionnaire, the close of escrow had to
17 be extended from June 30, 2017, to July 17, 2017; then July 20, 2017; and finally, July 24, 2017.

18 23. Following the close of escrow, defendant submitted a "Statement of Facts" to NRED alleging
19 plaintiff was racist, sexist, unprofessional, and unethical, and which contained a number of false
20 statements of fact.

21 24. First, defendant stated on multiple occasions in her Statement of Facts that plaintiff engaged
22 in unethical, unprofessional, sexist, and racist behavior, largely based on the fact that he complimented
23 her on her purchase of the condo and that as she progressed with her career and became more successful,
24 I would be happy to represent her in future real estate purchases should her brother retire from real estate.
25 No reasonable person could believe, in good faith, that the statement defendant attributes to plaintiff
26 could possibly be racist, sexist, unprofessional, or unethical.

27 25. Second, defendant claimed in her Statement of Facts that plaintiff shared "confidential info"
28 with defendant regarding the seller, which [defendant] understood realtors aren't supposed to do. In

1 reality, plaintiff did not share any confidential information with defendant. Defendant lied in her
2 Statement of Facts by stating plaintiff told her he met the seller on a dating website, when in reality, the
3 seller told that piece of information to defendant. Regardless, defendant does not state how this is
4 confidential information that would be relevant to NRED. More importantly, defendant claims plaintiff
5 told defendant the amount of plaintiff's commission, which is confidential, but in reality, the seller
6 authorized plaintiff to release the amount of the commission to defendant in order to move the sale along
7 at the optimal price for seller. Accordingly, this information was not "confidential," and if defendant had
8 simply spoken to plaintiff or the seller about this issue, she would have known plaintiff was authorized
9 to release the commission amount.
10

11 26. Third, defendant claims plaintiff acted unethically because defendant attempted to
12 communicate with the appraiser. However, there is nothing unethical about a real estate agent
13 communicating with an appraiser. To the contrary, ethics require that when representing a seller, an agent
14 should communicate with the appraiser and provide information regarding comparable sales and upgrades
15 to the appraiser.

16 27. Fourth, defendant states plaintiff "lied on several occasions." To support this claim,
17 defendant states plaintiff lied about defendant not allowing plaintiff to remove all of her personal property
18 from the condo. However, plaintiff's statement is true. As stated in the seller's declaration, defendant
19 did in fact refuse to allow the seller to remove all of her personal property, and to this day, some of the
20 seller's personal property remains at the condo. Defendant also refused to sign an addendum providing
21 the seller access to remove her personal property from the condo.
22

23 28. Fifth, defendant claims plaintiff never provided her a "signed copy of the contract," which
24 is completely false. On May 18, 2017, plaintiff emailed defendant and attached the Residential Purchase
25 Agreement signed by the seller.

26 29. Sixth, defendant states plaintiff "falsely" accused her of failing to meet the due diligence
27 timeframes in the contract. Defendant blames plaintiff's alleged failure to provide her with the signed
28 contract for her inability to meet her obligation to pay for the condo questionnaire, but as noted above,
plaintiff had provided the signed contract to defendant more than a month prior to the close of escrow.

1 Accordingly, defendant's statement that plaintiff "falsely" accused her of failing to meet all requirements
2 to close escrow is false. Defendant also claims that plaintiff never provided her with "a receipt for
3 defendant's earnest money," but a real estate agent does not provide receipts for earnest money unless
4 the earnest money is deposited into a broker's trust account. When earnest money is deposited with the
5 title and/or escrow company, a was the case here, title and/or escrow be the entity to provide such a
6 receipt. Plaintiff did provide escrow company contact information to Bryan Jolly, defendant's lender,
7 so defendant's lender did have notice of who the escrow company was and could have obtained an earnest
8 money receipt from escrow. Thus, while defendant's statement that plaintiff did not provide an earnest
9 money receipt is technically true, it is also very misleading.

11 30. Seventh, defendant makes false allegations that the seller told defendant that plaintiff was
12 "trying to sabotage this deal" and that plaintiff had "an ulterior motive." However, as proven by the
13 declaration of the seller also attached to the opposition, the seller never told defendant that plaintiff was
14 trying to sabotage the deal or that plaintiff had an ulterior motive, so this is another false, defamatory
15 statement. In fact, plaintiff expended great effort to keep this deal alive, including securing three
16 extensions of the close of escrow, so clearly plaintiff had no intention of sabotaging the deal.

17 31. As a result of defendant's NRED complaint, plaintiff was then forced to defend himself
18 against for approximately eight months, including spending more than 50 hours responding to the
19 complaint and NRED's investigation.

20 32. Ultimately, NRED chose to dismiss the complaint and plaintiff was cleared of any
21 wrongdoing.

22 33. However, the damage had been done due to defendant's defamatory Statement of Facts which
23 in and of itself caused harm to plaintiff, and also caused other damage by forcing plaintiff to spend so
24 much time defending himself.

25
26 **FIRST CLAIM FOR RELIEF**

27 34. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
28 33 as though fully set forth herein.

35. Defendant made false and defamatory statements about plaintiff in her NRED Statement of

1 Facts, as outlined in detail above.

2 36. Defendant published the NRED Statement of Facts to NRED and NRED's employees and
3 investigators, which was an unprivileged publication.

4 37. Defendant either purposely or negligently published the Statement of Facts to NRED with
5 knowledge that many of her statements were false.

6 38. As a direct and proximate result of defendant's defamatory NRED Statement of Facts,
7 plaintiff has suffered damages in an amount in excess of \$15,000.00.

8 39. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this
9 claim, and plaintiff is entitled to recover the same.

10 **SECOND CLAIM FOR RELIEF**

11 40. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
12 39 as though fully set forth herein.

13 41. Defendant's defamatory statements in her NRED Statement of Facts impute plaintiff's lack
14 of fitness for his chosen profession, real estate agents.

15 42. Defendant's defamatory statements do so by claiming plaintiff acted unethically and
16 unprofessionally; by claiming plaintiff was racist and sexist; by claiming plaintiff lied about his actions
17 in selling the subject property; by claiming plaintiff failed to act properly in completing the sale of the
18 subject property; by wrongly claiming plaintiff violated the seller's confidentiality by releasing the seller's
19 confidential information to a third-party; by falsely claiming plaintiff failed to provide defendant with a
20 copy of the purchase agreement signed by the seller; and by attributing to the seller statements impugning
21 plaintiff's behavior during the deal - statements which the seller never made.

22 43. Because defendant committed defamation imputing plaintiff's lack of fitness for his
23 profession, plaintiff's damages are presumed and plaintiff does not need to provide proof of such
24 damages.

25 44. As a direct and proximate result of defendant's defamatory NRED Statement of Facts,
26 plaintiff has suffered damages in an amount in excess of \$15,000.00.

27 45. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this
28

1 claim, and plaintiff is entitled to recover the same.

2 **THIRD CLAIM FOR RELIEF**

3 46. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
4 45 as though fully set forth herein.

5 47. Defendant's defamatory statements to NRED served to disparage plaintiff's business by
6 falsely impugning his actions during the sale of the subject property.

7 48. As a direct and proximate result of defendant's defamatory NRED Statement of Facts,
8 plaintiff has suffered damages in an amount in excess of \$15,000.00.

9 49. Plaintiff has had to retain an attorney and incur attorney's fees and costs in order to bring this
10 claim, and plaintiff is entitled to recover the same.

11 **FOURTH CLAIM FOR RELIEF**

12 50. Plaintiff repeats, realleges, and incorporates the allegations contained in paragraphs 1 through
13 45 as though fully set forth herein.

14 51. By submitting her false NRED Statement of Facts, defendant acted with extreme and
15 outrageous conduct with either the intention of, or reckless disregard for, causing emotional distress,
16 because defendant had actual notice, as described herein, that her Statement of Facts contained numerous
17 false, disparaging statements about plaintiff.

18 52. Plaintiff suffered severe emotional distress as a result of defendant submitting her Statement
19 of Facts to NRED, and the ensuing investigation which consumed over 50 hours of plaintiff's time to
20 defend against.

21 53. Because of defendant's false Statement of Facts, plaintiff suffered from loss of sleep, stress
22 over the possible loss of his entire livelihood, and stress over the damage to his reputation with NRED,
23 the governing body of Nevada real estate agents.

24 54. Additionally, plaintiff developed pneumonia, fever, inflammation, and a serious cough due
25 to the stress he suffered after he learned defendant had reported him to NRED.

26 55. Defendant's conduct in submitting the NRED Statement of Fact was the actual or proximate
27 cause of plaintiff's distress discussed herein.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of Law
3 Offices of Michael F. Bohn., Esq., and on the 8th day of October, 2019, an electronic copy of the
4 PLAINTIFF CHARLES "RANDY" LAZER'S FIRST AMENDED COMPLAINT was served on
5 opposing counsel via the Court's electronic service system to the following counsel of record:
6

7
8 Marc J. Randazza, Esq.
9 Alex J. Shepard, Esq.
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14 /s/ /Marc Sameroff/
15 An Employee of the LAW OFFICES OF
16 MICHAEL F. BOHN, ESQ., LTD.
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