

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

<p>Jonathan Corbett, Elise Domyan</p> <p><i>Plaintiffs</i></p> <p>v.</p> <p>28 SG Hospitality Group, LLC d/b/a Flash Factory, Unknown Security Firm d/b/a "M2," Jane Doe</p> <p><i>Defendants</i></p>
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Index No. \_\_\_\_\_

**VERIFIED COMPLAINT**

**JURY DEMANDED**

**NATURE OF THE ACTION**

1. In December 2016, Plaintiffs Jonathan Corbett ("Corbett") and Elise Domyan ("Domyan") attended an event at a venue named Flash Factory in midtown Manhattan, owned by Defendant 28 Hospitality Group, LLC ("Flash Factory") and secured by the second defendant, an unknown security contracting firm that appeared to go by the name "M2."
2. As what is apparently their customary security practice, M2 "pats down" all attendees to their events, which is not rare at New York nightlife venues and typically is a brief body search for weapons consisting of touching the outside of the attendee's pockets and waistband.
3. However, during their search of Corbett and Domyan, M2 employee Defendant Jane Doe grabbed Corbett's genitals and lifted Domyan's bra off of her chest to feel her breasts beneath.
4. Corbett and Domyan did not voluntarily consent to sexual assault as a condition of entering Flash Factory, and hereby ask the Court to hold Flash Factory, M2, and Jane Doe liable for battery.

**JURY TRIAL**

5. Corbett and Domyan demand a trial by jury.

**PARTIES**

6. Plaintiff Corbett is a U.S. citizen residing in Miami-Dade County, Florida, and a part-year resident of New York County, New York.
7. Plaintiff Domyan is a U.S. citizen residing in Fairfield County, CT.
8. Defendant Flash Factory is a New York limited liability company headquartered in New York County, New York.
9. Defendant M2 is a yet-to-be-named security firm that does business within New York County, NY and is required to register for licensing to conduct security activities in that location<sup>1</sup>.
10. Defendant Jane Doe is the yet-to-be-named individual who searched Corbett and Domyan.

**JURISDICTION & VENUE**

11. This Court has subject-matter jurisdiction under N.Y. CPLR § 301.
12. This Court has personal jurisdiction under N.Y. CPLR § 301 over all defendants as they all either reside, work, or do business within the State of New York on a regular basis, and the basis for the complaint arose out of their New York presence.

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<sup>1</sup> Department of State records do not appear to uncover a registered security firm named "M2," and so they are sued here as an unnamed corporation until Flash Factory may be compelled to identify them.

13. This Court is the proper venue because the incident giving rise to the complaint occurred entirely within the County of New York.

### **ALLEGATIONS OF FACT**

14. On or about December 23<sup>rd</sup>, 2016 at 11:30 PM, Corbett and Domyan entered a line to get into “Flash Factory.”

15. Flash Factory is a nightclub in midtown Manhattan that regularly hosts music events.

16. While in line, Corbett noticed a car parked outside the venue with an “M2 Security” logo that appeared to resemble a logo found on the clothing of at least one security person at Flash Factory.

17. Upon belief and the information above, Plaintiffs believe that all security staff belong to a security firm, hired by Flash Factory as an independent contractor, doing business (legally or illegally) as “M2.”

18. Plaintiffs reached the front of the line on or about December 24<sup>th</sup>, 2016 at 12:15 AM.

19. After a staff member examined Plaintiffs’ tickets, Plaintiffs were directed to a female security guard.

20. Plaintiffs expected, based on their experiences at other Manhattan nightclubs, that this guards would perform a pat-down.

21. Plaintiffs’ experience at other nightclubs had been that these searches are typically a very brief – 15 second or less – pat-down of the outside of all pockets and the waistband.

22. However, Jane Doe, the security guard patting down Domyan, without warning, lifted Domyan’s bra away from her chest and reached her fingers underneath to touch Domyan’s breasts.

23. Corbett did not clearly see Domyan's search and therefore was not alerted to its abnormal invasiveness.
24. Subsequently, Jane Doe patted down Corbett, and, without warning, grabbed his genitals with the full palm and fingers of her hand
25. Neither Corbett nor Domyan had any advance notice of the intent of security to so gratuitously touch their intimate areas.
26. Neither Corbett nor Domyan consented to the touching of the same.
27. Plaintiffs felt violated and offended by the conduct of the security guards.
28. After discussing the matter with other patrons, Plaintiffs learned that this sexual assault by security at the door was commonplace that evening at Flash Factory.
29. Upon belief and the above information, Flash Factory is aware that their security guards are touching patrons in this way, but failed to order them to refrain from doing so.

### **CLAIMS FOR RELIEF**

#### **Counts 1 & 2 – Civil Battery against Jane Doe**

30. Plaintiffs re-allege all of the preceding paragraphs and incorporate them by reference.
31. Jane Doe intended to touch Corbett's intimate areas.
32. Jane Doe intended to touch Domyan's intimate areas.
33. With that intent, Jane Doe did touch those intimate areas of both Corbett and Domyan.
34. Plaintiffs did not consent to such touching.
35. Plaintiffs were offended by such touching.

36. Therefore, Jane Doe is liable to Corbett for battery (Count 1).

37. Therefore, Jane Doe is liable to Domyan for battery (Count 2).

**Counts 3 & 4 – Respondeat Superior (M2)**

38. Plaintiffs re-allege all of the preceding paragraphs and incorporate them by reference.

39. M2 is liable for the torts of their employees committed in furtherance of their employers, and the tortious conduct of Jane Doe was in furtherance.

40. Therefore, M2 is liable to Corbett for the battery committed by Jane Doe (Count 3).

41. Therefore, M2 is liable to Domyan for the battery committed by Jane Doe (Count 4).

**Count 5 & 6 – Respondeat Superior**

42. Plaintiffs re-allege all of the preceding paragraphs and incorporate them by reference.

43. As a general rule, an employer is not liable for the torts of their independent contractors.

44. Under the “non-delegable duty” doctrine, or alternatively under a “right to control” test, an exception will apply and Flash Factory will be liable for the tortious conduct of their independent contractors committed in furtherance of their employers, and the tortious conduct of Jane Doe was in furtherance.

45. Therefore, Flash Factory is liable to Corbett for the battery committed by Jane Doe (Count 5).

46. Therefore, Flash Factory is liable to Domyan for the battery committed by Jane Doe (Count 6).

**Count 7 & 8 – Negligence**  
*(Selection, Training, Supervision)*

47. Plaintiffs re-allege all of the preceding paragraphs and incorporate them by reference.
48. Flash Factory had a duty of care owed to its customers to create a safe environment.
49. This duty requires Flash Factory to select, train, and supervise their security guards as a reasonable nightclub owner would.
50. Had Flash Factory properly selected, trained, and supervised their security guards, they would not have been touching the breasts and genitals of their customers without consent, and therefore it is apparent that Flash Factory has breached their duty.
51. The battery upon Plaintiffs would not have occurred but for Flash Factory's breach of that duty.
52. Plaintiffs were damaged as a result.
53. Therefore, Flash Factory is liable to Corbett in negligence (Count 7).
54. Therefore, Flash Factory is liable to Domyan in negligence (Count 8).

**PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief:

- i. Compensatory and punitive damages in the total amount of \$50,000 against all defendants found liable to Corbett, to be owed jointly and severally.
- ii. Compensatory and punitive damages in the total amount of \$50,000 against all defendants found liable to Domyan, to be owed jointly and severally.

- iii. Cost of the action.
  
- iv. Reasonable attorney's fees, to the extent that state law allows a *pro se* litigant to collect attorney's fees, and in the event that either or both Plaintiffs retain an attorney at a later point in this matter.
  
- v. Any other such relief as the Court deems appropriate.

Dated: New York, New York

February 14<sup>th</sup>, 2017

Respectfully submitted,

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/s/

Jonathan Corbett

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