

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

FILED
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JOHN F. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

JANE DOE)

Plaintiff,)

v.)

Case No. 2018 16980

HILTON WORLDWIDE)
HOLDINGS INC.,)

Serve: Registered Agent)
Corporation Service Company)
251 Little Falls Drive)
Wilmington, Delaware 19808)

HILTON DOMESTIC OPERATING)
COMPANY INC.,)

Serve: Registered Agent)
Corporation Service Company)
100 Shockoe Slip, 2nd Floor,)
Richmond, Virginia 23219)

HILTON FRANCHISE HOLDING LLC,)

Serve: Registered Agent)
Corporation Service Company)
251 Little Falls Drive)
Wilmington, Delaware 19808)

BANYAN INVESTMENT)
GROUP, LLC,)

Serve: Registered Agent)
Paracorp Incorporated)
155 Office Plaza Drive, 1st Floor)
Tallahassee, Florida 32301)

ALBANY DOWNTOWN HOTEL)
PARTNERS, LLC,)

Serve: Registered Agent)
Paracorp Incorporated,)
2140 S. Dupont Hwy.)
Camden, Delaware 19934)

And

JOHN DOE,

Defendants.

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COMPLAINT

Plaintiff Jane Doe, by counsel, moves this Honorable Court for judgment, pre- and post-judgment interest, and for an award of execution against the Defendants, Hilton Worldwide Holdings Inc.; Hilton Domestic Operating Company Inc.; Hilton Franchise Holding LLC; Banyan Investment Group, LLC; Albany Downtown Hotel Partners, LLC; and John Doe (collectively “Defendants”), both jointly and severally, on the grounds and in the amount set forth below.

I.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this matter pursuant to Va. Code Section 17.5-513. The principal place of business for Defendant Hilton Worldwide Holdings Inc., Defendant Hilton Domestic Operating Company Inc., and Defendant Hilton Franchise Holding LLC is located in McLean, Fairfax County, Virginia , and as such, these Defendants are subject to the jurisdiction of this Court. Defendants Banyan Investment Group, LLC and Albany Downtown Hotel Partners, LLC are the franchisee owner/operators of the subject hotel where the incident took place. As Hilton franchisee owner/operators, Banyan Investment Group, LLC and Albany Downtown Hotel Partners, LLC have done substantial business with Hilton in Virginia

relating to ownership and operation of the subject hotel. They are therefore subject to the jurisdiction of this Court pursuant to Virginia's long-arm statute, Va. Code Section 8.01-328.1.

2. Venue in this matter is proper in Fairfax, Virginia pursuant to Virginia Code § 8.01-262(3), where Defendants regularly conduct affairs or business.

3. Removal of this case is not permitted because both Hilton Worldwide Holdings Inc. and Hilton Domestic Operating Company Inc. are forum defendants and therefore diversity of jurisdiction is lacking.

II.

THE PARTIES

4. The Plaintiff, Jane Doe¹, is an adult resident of Chicago, Illinois.

5. Defendant, Hilton Worldwide Holdings Inc. ("Hilton Worldwide") is a Delaware corporation that maintains its principal place of business in McLean, Virginia.

6. Defendant, Hilton Domestic Operating Company Inc. ("Hilton Operating") is a Delaware corporation that maintains its principal place of business in McLean, Virginia.

7. Defendant, Hilton Franchise Holding LLC ("Hilton Franchise") is a Delaware limited liability company that maintains its principal place of business in McLean, Virginia.²

¹ Due to the significant privacy violations Plaintiff has already endured as a result of the negligent and grossly negligent conduct of Defendants, Plaintiff is bringing this suit as "Jane Doe." Proceeding as Jane Doe in this case comports with the requirements and factors set forth in Va. Code Section 8.01-15.1, which governs the conditions under which a plaintiff may proceed anonymously in Virginia state courts. Anonymity is especially necessary because this case involves "special circumstances such that the need for anonymity outweighs the public's interest in knowing the [Plaintiff's] identity and outweighs any prejudice to any other party." Va. Code Section 8.01-15.1(A). Additionally, by proceeding as Jane Doe, Plaintiff is not intending "merely to avoid the annoyance and criticism that may attend any litigation," but instead is proceeding as Jane Doe "to preserve privacy in a sensitive and highly personal matter." *Id.* Further, given the history of the harassment Plaintiff has already endured with escalating threats and posting of the video of her online, proceeding in her full name would pose "a risk of retaliatory physical or mental harm to the [Plaintiff] or to innocent nonparties." *Id.* Finally, there is no unfairness to the parties by Plaintiff proceeding as Jane Doe because the Defendants are already aware of Plaintiff's full name and identity.

² At times throughout this Complaint, Plaintiff will refer to Defendants Hilton Worldwide, Hilton Operating, and Hilton Franchise as the "Hilton Defendants."

8. Defendant Banyan Investment Group, LLC (“Banyan Investment Group”) is a Florida limited liability company with its principal place of business in Miramar Beach, Florida. Banyan Investment Group does a substantial amount of business relating to Hilton in Virginia.

9. Defendant Albany Downtown Hotel Partners, LLC (“Albany Hotel Partners”) is a Delaware limited liability company with its principal place of business in Miramar Beach, Florida. Albany Hotel Partners does a substantial amount of business relating to Hilton in Virginia.

10. Defendant John Doe is believed to be an employee or agent of Defendants with an unknown physical residential address. At all material times referred to in this Complaint, John Doe was conducting himself in the normal course of business acting within the scope of his employment with Defendants.

III.

GENERAL ALLEGATIONS

Facts Relating to the Unauthorized Recording of Plaintiff

11. In July of 2015, Plaintiff paid for a room at the Hampton Inn and Suites Albany-Downtown in Albany, New York (“Hampton Inn-Albany”). At the time, Plaintiff had just graduated law school and was staying in Albany to take the New York bar exam. Plaintiff was staying at the Hampton Inn-Albany during her time taking the bar exam.



12. Unbeknownst to Plaintiff, and without her consent, Plaintiff was recorded by video in the shower, fully nude, by a hidden video camera.

13. Plaintiff did not realize that she was recorded until September 30, 2018, when she received an email stating “*this is you right?*” which included a link to a video posted on a pornographic video website smutr.com. The link went to a video publicly available on the

Internet titled “[Jane Doe] Bathroom Voyeur Cam – 2.” The title of the video contained Plaintiff’s full name.

14. Plaintiff viewed the video and it indeed was herself showering in the Hampton Inn-Albany. The video shows Plaintiff fully nude and is multiple minutes long.

15. The following is a screenshot from the video taken of Plaintiff and also another picture of the bathroom setup in the Hampton Inn-Albany. The two are a near-perfect match:

Screenshot from Video of Plaintiff	Photo of Hampton Inn-Albany Bathroom
	

16. That same night, Plaintiff received another email from the same sender with specific personal details about Plaintiff including where she attended university, that she had

taken the New York bar exam, and where Plaintiff worked. In that same email the sender said, *“I don’t want to embarrass you please reply.”*

17. On October 1, 2018, Plaintiff received another email from the same sender stating: *“I’m a perv. I don’t hurt anyone. I like to watch. No need to worry about me I just like to watch and then I move on to the next.”*

18. Later that day on October 1, 2018, Plaintiff received another email from the same sender stating: *“Promise me my own show. That’s the hottest. No need to show your face. Then I disappear and remove the videos forever before they get copied on every website.”*

19. Without responding, Plaintiff received another email from the same sender on October 1, 2018, stating: *“Are you here still? I know it’s you. I don’t want to embarrass you. Please reply before it’s too late to stop it.”*

20. Just minutes later, the video of Plaintiff, once again with her full name, was posted on the website pornhub.com.

21. In the early evening of October 1, 2018, Plaintiff received another email from the same sender now threatening: *“You have until midnight to send me something good. Or I will post videos, your name, info everywhere. Then I send to people you know. You can enjoy being famous.”*

22. Plaintiff did not respond to the threats.

23. On October 11, 2018, the video of Plaintiff was posted to the following pornographic websites—each time with Plaintiff’s full name in the video title:

(a) redtube.com

(b) xvideos.com

(c) xnxx.com

(d) pornhub.com (again)

24. Throughout this time Plaintiff was trying to get the websites to remove the video. Some websites temporarily removed the video, others did not.

25. On October 19, 2018, Plaintiff received another email from the same sender stating: “*Why’d you take down my video??? It’s ok it’s already up on a bunch of sites lol. You already hit 1000 views on one. Just sent you in to a new one. Want (sic) to know which one? Do you want me to stop?*”

26. The next day, on October 20, 2018, Plaintiff received another email from the same sender stating: “*Round 2 starts today. This time I start by emailing people you know. You think you’re better than other people but you’re just a whore. Eiher (sic) we talk or this goes out. Either you be my bitch or [Jane Doe] will be everbody’s (sic) bitch. Be smart.*” Attached to the email was a photo of Plaintiff fully nude in the shower.

27. On October 26, 2018, in the afternoon Plaintiff began receiving emails from colleagues, friends, and former classmates. The emails being forwarded to her by her friends and work associates were sent by an email address set up in Plaintiff’s name (but it was not Plaintiff’s email address nor was it Plaintiff sending the emails), and the emails sent directly to Plaintiff’s friends and colleagues said the following:

Subject: Help with Art Project

Dear Friends,

Hi all! Hope you are all well. As the subject line says, I am trying to recruit some friends to help out a friend's art project (for which I got to be the model!! :))))

It's a little daring (trust me) but you can decide that. Let me know what you think and leave a like!

Here is the vimeo link: vimeo.com³

³ Plaintiff has removed the specific link from the Complaint, but the video was posted to popular video-sharing website, vimeo.com.

28. The emails sent to Plaintiff's friends and colleagues appeared to be sent from Plaintiff given that the new email address was set up in her name. Throughout the afternoon on October 26, 2018, Plaintiff was forwarded these emails from numerous friends and colleagues.

29. The link included in these emails included a new version of the video of Plaintiff that included Plaintiff's full name not only in the video title but also in the video itself.

30. On the evening of October 26, 2018, Plaintiff received another email from the same sender who had been communicating with her previously stating the following:

Time to talk yet?

Maybe check out Vimeo for the video projects I uploaded of you. Search your name. All those views are people you know. HUNDREDS. Some maybe watched more than once :) You want this to stop. You want me to stop. Right? Do I need more from you?

Maybe you're ready. I can do that.

A little bit of money and it all goes away.

\$2,000 USD TODAY. Then \$1,000 USD each month for one year. You pay some now, a little later, and some after that. First payment and I stop the videos. Second payment less money, stay quiet. Third payment, stay quiet. You're buying peace. Easy right? Reply and then you get the BITCOIN address. So easy.

31. Plaintiff did not give in to the demands, and the video of Plaintiff has continued to be posted online on various websites. At present, the video of Plaintiff (each time with her full name) has been posted on the following websites at least once (and in many instances multiple times):

(a) Pornhub.com (numerous postings)

(b) Pornhub.com (Spanish)

(c) Redtube.com

(d) Xvideos.com

(e) Xnxx.com

- (f) Smutr.com
- (g) Thumbzilla.com
- (h) Pornado.co
- (i) Sexer.cz
- (j) Big-boob-porn.com
- (k) Alohatube.com
- (l) Motherless.com
- (m) Tubesafari.com

32. Plaintiff is forced to continually monitor online for when additional postings are made online to attempt to remove the video.

Relationship of Defendants

33. The Defendants are related in the following manner:

34. Hilton Franchise is the Hilton entity that contracts directly with individual franchisees. Hilton Operating is the parent company of Hilton Franchise and is responsible for Hilton's hotel operations in the United States. Hilton Worldwide is the parent company of Hilton Operating and oversees all Hilton business activities.

35. The Hilton Defendants are responsible for the oversight, operation, and training for numerous hotels in the United States and throughout the world. As of December 31, 2016, Hilton has 4,922 hotels, resorts, and timeshare properties providing 804,097 rooms in 104 countries. As of December 31, 2016, Hilton employs more than 169,000 employees in its managed, owned, leased, and timeshare properties and corporate offices around the world.

36. The Hilton Defendants provide numerous services to their franchisees, including, but not limited to the following:

- (a) Reservation services
- (b) Furniture and fixtures
- (c) Computer software, hardware, and support
- (d) Direct management of the franchised hotels

37. The Hilton Defendants also provide mandatory training programs that the general manager and/or other key personnel from each hotel must attend before opening a new franchised hotel.

38. The Hilton Defendants also provide ongoing training for its franchisees and the employees of franchisees.

39. The Hilton Defendants also provide services to franchisees to recruit various types of employees.

40. The Hilton Defendants set specific standards its franchisees must follow. The specific standards set by the Hilton Defendants include, but are not limited to, the following:

- (a) Furniture to use
- (b) Fixtures to use
- (c) Services to provide
- (d) Property management
- (e) Customer satisfaction measurement programs
- (f) Uniforms
- (g) Any and all items used in the operation of the hotel

41. The Hilton Defendants also periodically require franchisees to make additional expenditures and investments to maintain the franchised hotels in accordance with the Hilton Defendants' standards and to remove any deficiencies in the hotel's operations.

42. The Hilton Defendants benefit from franchised hotels, like the Hampton Inn-Albany, by receiving a set royalty fee off all rooms stayed in. The Hilton Defendants received a royalty off the room Plaintiff stayed in when she was recorded by the hidden video camera.

43. In this case, the Hampton Inn-Albany—where the unauthorized video recording occurred—is a Hilton property that is owned and operated by Defendant Banyan Investment Group and Defendant Albany Hotel Partners.

44. The Hampton Inn-Albany was owned and operated by Defendant Banyan Investment Group and Defendant Albany Hotel Partners at the time she was recorded in July 2015.

John Doe and the Recording of Plaintiff and Others

45. Plaintiff was recorded by a hidden camera in the bathroom of the room she paid to stay in at the Hampton Inn-Albany.

46. The individual or individuals who recorded Plaintiff knew which room she stayed in, knew her full name, and knew her personal email address. This information was provided to the Hampton Inn-Albany upon check-in to Plaintiff's room.

47. Plaintiff has discovered that other individuals were also recorded in the same room at the Hampton Inn-Albany. Some of these individuals may have become aware of the recording after interactions like Plaintiff experienced above. However, many of these individuals are likely not yet aware that they were recorded in the bathroom and shower of the same room that Plaintiff stayed in.

48. To have access to personal information (full name, email address, etc.) the individual performing the unauthorized recording would have to be an employee of the hotel or someone with direct access to the rooms.

49. As Plaintiff has not identified the precise identity of the perpetrator at this time, Plaintiff brings claims against John Doe.

50. John Doe at the time of the recording of Plaintiff was an employee of one or more of the Defendants named in this suit.

IV.

CLAIMS

Count I: Negligence – The Hilton Defendants

51. Plaintiff re-alleges and re-affirms the allegations contained in paragraphs one (1) through fifty-one (51) above.

52. The Hilton Defendants owed a non-delegable duty of reasonable care to Plaintiff to ensure that Plaintiff was safe and her privacy was maintained while she stayed at the Hampton Inn-Albany.

53. The Hilton Defendants were negligent and breached the duty owed to Plaintiff in several respects, including but not limited to:

- (a) Failed to provide Plaintiff with a safe room;
- (b) Failed to properly train its employees;
- (c) Failed to properly train its franchisees;
- (d) Failed to properly supervise its employees;
- (e) Failed to properly supervise its franchisees;
- (f) Negligently hired John Doe;
- (g) Negligently trained John Doe;
- (h) Negligently supervised John Doe;

- (i) Failed to provide adequate safety and security equipment and measures for the rooms at the Hampton Inn-Albany;
- (j) Failed to maintain the Hampton Inn-Albany in a safe condition;
- (k) Failed to require its franchisees to maintain the Hampton Inn-Albany in a safe condition;
- (l) Failed to institute adequate policies and procedures that would have prevented this incident from occurring;
- (m) Violated applicable local, state, and federal regulations;
- (n) Is vicariously liable for its employees' negligence;
- (o) Is vicariously liable for its franchisees' negligence; and
- (p) Had actual and/or constructive notice of its unsafe premises.

54. As a direct and proximate result of the Hilton Defendants' negligence, Plaintiff has sustained severe and permanent psychological injuries, which resulted in severe mental anguish, emotional distress and other damages recognized and provided for under Virginia law. Further, as a direct and proximate result of the Hilton Defendants' negligence, Plaintiff also incurred past, present and future medical and pharmaceutical expenses and suffered a loss of earnings in the past, present and future.

Count 2: Negligence – Banyan Investment Group

55. Plaintiff re-alleges and re-affirms the allegations contained in paragraphs one (1) through fifty-one (51) above.

56. Banyan Investment Group owed a non-delegable duty of reasonable care to Plaintiff to ensure that Plaintiff was safe and her privacy was maintained while she stayed at the Hampton Inn-Albany.

57. Banyan Investment Group was negligent and breached the duty owed to Plaintiff in several respects, including but not limited to:

- (a) Failed to provide Plaintiff with a safe room;
- (b) Failed to properly train its employees;
- (c) Failed to properly supervise its employees;
- (d) Negligently hired John Doe;
- (e) Negligently trained John Doe;
- (f) Negligently supervised John Doe;
- (g) Failed to provide adequate safety and security equipment and measures for the rooms at the Hampton Inn-Albany;
- (h) Failed to maintain the Hampton Inn-Albany in a safe condition;
- (i) Failed to require its franchisees to maintain the Hampton Inn-Albany in a safe condition;
- (j) Failed to institute adequate policies and procedures that would have prevented this incident from occurring;
- (k) Violated applicable local, state, and federal regulations;
- (l) Is vicariously liable for its employees' negligence; and
- (m) Had actual and/or constructive notice of its unsafe premises.

58. As a direct and proximate result of the Banyan Investment Group's negligence, Plaintiff has sustained severe and permanent psychological injuries, which resulted in severe mental anguish, emotional distress and other damages recognized and provided for under Virginia law. Further, as a direct and proximate result of the Banyan Investment Group's

negligence, Plaintiff also incurred past, present and future medical and pharmaceutical expenses and suffered a loss of earnings in the past, present and future.

Count 3: Negligence – Albany Hotel Partners

59. Plaintiff re-alleges and re-affirms the allegations contained in paragraphs one (1) through fifty-one (51) above.

60. Albany Hotel Partners owed a non-delegable duty of reasonable care to Plaintiff to ensure that Plaintiff was safe and her privacy was maintained while she stayed at the Hampton Inn-Albany.

61. Albany Hotel Partners was negligent and breached the duty owed to Plaintiff in several respects, including but not limited to:

- (a) Failed to provide Plaintiff with a safe room;
- (b) Failed to properly train its employees;
- (c) Failed to properly supervise its employees;
- (d) Negligently hired John Doe;
- (e) Negligently trained John Doe;
- (f) Negligently supervised John Doe;
- (g) Failed to provide adequate safety and security equipment and measures for the rooms at the Hampton Inn-Albany;
- (h) Failed to maintain the Hampton Inn-Albany in a safe condition;
- (i) Failed to require its franchisees to maintain the Hampton Inn-Albany in a safe condition;
- (j) Failed to institute adequate policies and procedures that would have prevented this incident from occurring;

- (k) Violated applicable local, state, and federal regulations;
- (l) Is vicariously liable for its employees' negligence; and
- (m) Had actual and/or constructive notice of its unsafe premises.

62. As a direct and proximate result of Albany Hotel Partners' negligence, Plaintiff has sustained severe and permanent psychological injuries, which resulted in severe mental anguish, emotional distress and other damages recognized and provided for under Virginia law. Further, as a direct and proximate result of the Albany Hotel Partners' negligence, Plaintiff also incurred past, present and future medical and pharmaceutical expenses and suffered a loss of earnings in the past, present and future.

Count 4: Premises Liability – Banyan Investment Group and Albany Hotel Partners

63. Plaintiff re-alleges and re-affirms the allegations contained in paragraphs one (1) through fifty-one (51) above.

64. Defendants Banyan Investment Group and Albany Hotel Partners are liable to Plaintiff under a theory of premises liability.

65. Banyan Investment Group and Albany Hotel Partners had knowledge, actual or constructive, that a defect existed on their property—specifically the camera in Plaintiff's bathroom at the Hampton Inn-Albany.

66. The camera in Plaintiff's bathroom created an unsafe condition on the property.

67. The camera in Plaintiff's bathroom was one of the proximate causes of Plaintiff's injuries.

68. As a direct and proximate result of the negligence of Banyan Investment Group and Albany Hotel Partners under a premises liability theory, Plaintiff has sustained severe and permanent psychological injuries, which resulted in severe mental anguish, emotional distress

and other damages recognized and provided for under Virginia law. Further, as a direct and proximate result of the negligence of Banyan Investment Group and Albany Hotel Partners, Plaintiff also incurred past, present and future medical and pharmaceutical expenses and suffered a loss of earnings in the past, present and future.

Count 5: Negligence – John Doe and All Other Defendants Vicariously

69. Plaintiff re-alleges and re-affirms the allegations contained in paragraphs one (1) through fifty-one (51) above.

70. John Doe was an employee of one or more of the Defendants named in this case.

71. John Doe had access to Plaintiff's personal information and assigned Plaintiff to the room in which the video camera was placed in the bathroom.

72. John Doe facilitated the recording of Plaintiff and numerous others at the Hampton Inn-Albany.

73. John Doe negligently committed each of these acts while in the course and scope of his employment with Defendants and while acting as an employee of Defendants.

74. All other Defendants (The Hilton Defendants, Banyan Investment Group and Albany Hotel Partners) are vicariously liable for the wrongful conduct of Defendant John Doe.

75. As a direct and proximate result of the negligence of John Doe, Plaintiff has sustained severe and permanent psychological injuries, which resulted in severe mental anguish, emotional distress and other damages recognized and provided for under Virginia law. Further, as a direct and proximate result of the negligence of John Doe, Plaintiff also incurred past, present and future medical and pharmaceutical expenses and suffered a loss of earnings in the past, present and future.

Count 6: Violation of § 8.01-40 of the Virginia Code – All Defendants

76. Plaintiff re-alleges and re-affirms the allegations contained in paragraphs one (1) through fifty-one (51) above.

77. Plaintiff brings claims against each Defendant under Section 8.01-40 of the Virginia Code, which prohibits the unauthorized recording or another.

78. Plaintiff's name, portrait, and picture was used without her consent by the posting of videos of Plaintiff completely nude on multiple websites including her full name.

79. The violation of Plaintiff's privacy was done knowingly, which entitles Plaintiff to punitive damages.

80. As a direct and proximate result of Defendants' violation of Section 8.01-40 of the Virginia Code, Plaintiff has sustained severe and permanent psychological injuries, which resulted in severe mental anguish, emotional distress and other damages recognized and provided for under Virginia law. Further, Plaintiff also incurred past, present and future medical and pharmaceutical expenses and suffered a loss of earnings in the past, present and future.

V.

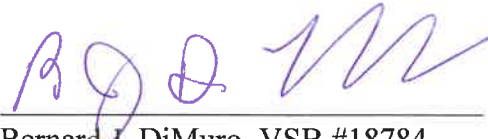
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Jane Doe, by counsel, demands judgment as and for her damages against the Defendants, Hilton Worldwide Holdings Inc.; Hilton Domestic Operating Company Inc.; Hilton Franchise Holding LLC; Banyan Investment Group, LLC; Albany Downtown Hotel Partners, LLC; and John Doe, jointly and severally, and an award of execution in the amount of \$100,000,000.00 (One Hundred Million Dollars) as well as pre- and post-judgment interest and her costs expended in this action.

PLAINTIFF DEMANDS TRIAL BY JURY.

JANE DOE,

By Counsel



Bernard J. DiMuro, VSB #18784
Stacey Rose Harris, VSB #65887
DiMUROGINSBERG, PC
1101 King Street, Suite 610
Alexandria, Virginia 22314-2956
Phone: (703) 684-4333
Fax: (703) 548-3181
bdimuro@dimuro.com
sharris@dimuro.com

Roland Christensen, Esq.
Kurt Arnold, Esq.
Caj Boatright, Esq.
ARNOLD & ITKIN, LLP
6009 Memorial Drive,
Houston, TX 77007
Phone: (713) 222-3800
rchristensen@ArnoldItkin.com
karnold@ArnoldItkin.com
cboatright@ArnoldItkin.com
Of Counsel