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Moisa, Ormand & Romo LLP

350 Fairfax Avenue

Mayfair, Columbia

TO: Irma Moisa

FROM: Applicant

DATE: July 28, 2026

RE: In re Freeman Potential Litigation

Ms. Moisa, you have asked me to prepare a letter for your signature for our client, Jane Freeman ("Ms. Freeman"). Specifically, you have asked that I assess whether each of the statements alleged by Ms. Freeman during the arbitration regarding the Columbia Museum of Modern Art ("the Museum") and Christine Hogan ("Ms. Hogan") are indeed defamatory. Please see below for a draft of the requested letter and do let me know if there are any changes or edits you would like for me to incorporate and I would be happy to do so.

I. Introduction

Dear Ms. Freeman,

Thank you for contacting our office regarding the potential of brining a defamation claim in Columbia State Court against the Columbia Museum of Modern Art ("the Museum") and Christine Hogan ("Ms. Hogan"). We are deeply apologetic that you were laid off after a prolonged dedication to the Museum and do wish you the best in your next endeavors. With that being said, we are happy to inform you that after conducting further research into the matter, some of the statements alleged in the arbitration do qualify as defamatory statements because they contain a provable falsehood and falsely accuse of lacking integrity, competence, and honesty. Please take some time to read our conclusions below and do let us know if you have any follow-up questions or if there is a different matter we would be able to assist you with.

II. Some of the statements alleged in the arbitration agreement are defamatory because they do contain a provable falsehood and read more as facts than opinions.

Defamation includes libel. (Colum. Civ. Code, Section 44.) Libel is a "false ... publication by writing ... which exposes any person to hatred, contempt, ridicule, or obloquy, or which ... has a tendency to injure them in their occupation." ((Colum. Civ. Code, Section 45.) Defamatory statements must contain a provable falsehood. To contain a provable falsehood, the statement must relate a fact. Courts have distinguished between states of fact and statements of opinion. A statement of fact generally says something about the world surrounding the speaker. However, some statements of opinion may imply a statement of fact. *(Slaughter v. Dental Administrators, Inc.)* The key in determining whether a

statement is one of fact or opinion is whether a reasonable fact finder could conclude the statement declares or implies a fact. Whether such a fact finder could so conclude must be determined under the totality of circumstances, including the words of the statement as a whole and the context in which the statement was made. *Id*.

Ms. Freeman, here, you will find that upon reviewing the statements in the arbitration agreement they do qualify as libel because they are all published by writing via email to various recipients: yourself, Walter Quist ("Mr. Quist"), and senior managers at Archive. Furthermore, these emails qualify as libel because they have a tendency to injure your occupation as they state multiple claims regarding the quality of your work or lack thereof on a particular project, the Newsreel Collection. In particular, some statements more than others have a tendency to injure your occupation because they state: "you have not been performing well on the Newsreel Collection, and do not seem up to the job.;" "she never completed documents formulating goals and deliverables over the life of the project and always refused my requests for the same.;" and "Ms. Freeman will never be a team player and that she may be actively working against our interests in her handling of the Newsreel Collection Project." All of these statements together and separately have a tendency to injure your occupation as a head of Commercial Services for the Archive and as the lead on the *Columbia Times* Newsreel Collection because they suggest that you are not performing well on the project, you are not showing any interest in it, in general - you have trouble formulating goals and deliverables across various projects, and that you are not a team player. These statements would make it questionable for anyone to want to work with you on a specific project or to rehire you in a different position, therefore, these statements would qualify as libel.

However, Ms. Freeman, while we understand that it must be difficult to reread some of these statements and while they would qualify as libel, we would need to better understand if they were indeed false. After reviewing the statements further and conducting more research, we believe some but not all of these statements to be opinions because they do not relate to facts and when stated as opinions they do not imply a statement of fact. For example, in the email dated January 15, 2024, we believe it to be an opinion rather than a fact or an opinion implying a statement of fact because Ms. Hogan starts by saying she does not believe you are incompetent but that you have not been performing well on the Newsreel Collection and do not seem up for the job which displays her opinion as your direct supervisor on a project that she has oversight on. Another example of this form of statement is in the email dated April 6, 2024 which states that an opinion implying a fact that does not contain falsehood because after being asked by Ms. Hogan to be included on all important emails, you agreed, but then you took a meeting with International Digital Collection ("IDC") by yourself and Ms. Hogan was not copied on any of those emails. This email then further suggests that you, Ms. Freeman, might be attempting to undermine the Museum's effort which could qualify as a defamatory statement but it is then followed by an opinion that Ms. Hogan can't prove any of this and she was indeed speculating.

However, Ms. Freeman, there are some statements to be opinions because they do not relate to facts and when stated as opinions they imply a statement of fact that is rooted in provable falsehood. For instance, an email then dated April 5, 2024, is a statement of fact that does contain a provable falsehood because it indicates that you have never completed documents formulating goals and deliverables over any project and have always refused Ms. Hogan's request for the same which we understand to not be true because you worked with the Museum over the course of close to two decades and you have worked on and completed multiple projects during that time. Additionally, an email dated April 11, 2024 is an opinion that

contains a statement of fact but does have provable falsehood because it suggests that Ms. Hogan's opinion is that you have never been a team player and that you are actively working against the Museum's interest so they must let you go for those reasons. These two statements when evaluated with a totality of circumstances indicate that they are indeed defamatory. Finally, the email dated on April 13, 2024 or on April 17, 2024 would not read as defamatory because the former was only sent to you and the latter was too ambiguous to be a defamatory statement.

In the case of *Slaughter v. Dental Administrators, Inc.* the court held that the defendant's opinions stating that Dr. Slaughter's dental work was "unnecessary" and that he was "overcharging" can be found by a fact finder to be understood as an actual fact because they were made by an established dental insurance plan administrator. Ms. Freeman, you'll find that this case is similar to yours because while some say a few of the above emails are opinions because they were communicated by your direct supervisor, Ms. Hogan, they are read just as opinions but as actual facts. Thus, we believe that the Columbia State Court will agree that some of these statements but not all were defamatory.

For these reasons, Ms. Freeman we believe that some of the emails do indeed allege defamatory statements.

III. Some of the statements alleged in the arbitration agreement are defamatory because they evaluate your performance as one that is dishonest, lacks competence, and integrity.

The court in *Jensen v. OmniWare Co.*, has held that unless a statement evaluating an employee's performance falsely accuses an employee of criminal conduct, lack of integrity, dishonesty, incompetence, or reprehensible personal characteristics or behavior, it should be deemed *not* a statement of fact and hence *not* defamatory. The court initially reasoned that statements evaluating an employee's performance serve the important business purpose of documenting the employer's hiring, promotion, discipline, and firing practices. *Id.* Furthermore, the court stated that practice of evaluating employees is to be encouraged so that an employer may inform an employee of what they expect, how the employee measures up, and what the employee needs to do to obtain wage increases, promotions, or other recognition. *Id.*

Ms. Freeman, here, you will find that according to the court only some of the statements alleged in the emails would qualify as defamatory statements because they relate to a lack of integrity or dishonest while others do not. Specifically, the email dated January 15, 2024 would not be defamatory because it explicitly states that Ms. Hogan can't say you are incompetent but that you are not performing well on the job and do not seem interested in it, which indicates more of your performance on the Newsreel Collection than falsely accusing you of any crime or lack of dishonesty and it was only sent to you than published to a third party. However, the email dated from April 5, 2024 would qualify as a defamatory statement because it displays incompetence by stating that you never completed documents formulating goals and deliverables over the life of a project and always refuse Ms. Hogan's request for the same. In particular, this statement indicates that you fail to follow directions and that you refuse to do so after being asked multiple times which would fall under the incompetence category.

Furthermore, the email dated April 6, 2024 would indicate Ms. Hogan falsely accusing you of dishonesty and a lack of integrity because it reads as if you are purposely setting up meetings with IDC behind Ms.

Hogan's back to keep the project to yourself which indicates your are not truthful. Furthermore, in the same email, Ms. Hogan states that you might be undermining the Museum's efforts which further falls into the category of being an employee that lacks integrity and truthfulness. Additionally, in the email dated April 11, 2024, Ms. Hogan blatantly accuses you of lacking integrity and being dishonest because she accuses you of not being a team player and that you are actively working after the Museum's efforts. The email dated on April 13, 2024 or on April 17, 2024 would not read as defamatory because the former was only sent to you and the latter was too ambiguous to be a defamatory statement.

In the case of, *Jensen v. OmniWare Co.,* that the defendant's statements evaluating the plaintiff's performance as an employee do not the plaintiff of falsely or otherwise, of criminal conduct, lack of integrity, dishonesty, incompetence, or reprehensible personal characteristics or behavior because the defendant simply informed the plaintiff that he needs to improve on his on-the-job performance in certain relatively minor respects. This case is different from yours, Ms. Freeman, because while as the court stated there is a legitimate reason for evaluating an employee's performance for their own benefit that is not what Ms. Hogan did, she falsely accused of being incompetent, dishonest, and lacking integrity. The court will most likely find that Ms. Hogan's statements are defamatory and while we do understand that the Newsreel Collection was incomplete when you left, it should come at the cost of a lack of respect, goodwill, or esteem towards you.

For these reasons, Ms. Freeman we do indeed believe some of these emails allege defamatory statements.

IV. Conclusion

Ms. Freeman, we hope that you have reviewed the matter and find that you do indeed have a claim for defamation for some of the statements alleged in arbitration agreement. In particular, some of the statements alleged in the arbitration do qualify as defamatory statements because they contain a provable falsehood and falsely accuse of lacking integrity, competence, and honesty. We look forward to hearing from you soon, thank you!

Sincerely,

Ms. Moisa

END OF EXAM